

AMENDMENT NO. \_\_\_\_\_

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Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

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by deleting all language after the enacting clause and by substituting instead the following language:

SECTION\_\_[1]\_\_. Part 1, Chapter 1, Title 36, of the Tennessee Code Annotated, is amended by deleting the part in its entirety and by substituting instead the following new code sections:

**T.C.A. § 36-1-101. Purpose of part--Construction.** (a) The primary purpose of this part is to provide means and procedures for the adoption of children and adults that recognize and effectuate to the greatest extent possible the rights and interests of persons affected by adoption, especially those of the adoptees, which are specifically protected by the Constitutions of the United States and the State of Tennessee and to those ends seek to ensure, to the greatest extent possible:

(1) That children are removed from the homes of their parents or guardians only when that becomes the only alternative which is consistent with the best interest of the child;

(2) That children are placed only with those persons who have been determined to be capable of providing proper care and a loving home for an adopted child;

(3) That the rights of children to be raised in loving homes which are capable of providing proper care for adopted children and that the best interests of children in the adoptive process are protected;

(4) That the adoptive process protects the rights of all persons who are affected by that process and who should be entitled to notice of the proceedings for the adoption of a child;

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(5) That the adoption proceedings are held in an expeditious manner to enable the child to achieve permanency, consistent with his or her best interests, at the earliest possible date; and

(6) That the adopted child is protected in his or her adoptive relationship from any interference by any person who may have some legal claim after the child has become properly adjusted to his or her adoptive home.

(b) The secondary purpose of this part is:

(1) To protect biological parents and guardians of children from decisions concerning the relinquishment of their parental or guardian's rights to their children or wards which might be made as a result of undue influence or fraud;

(2) To protect adoptive parents from assuming the care and responsibility for a child about whose physical, mental, emotional, and hereditary background they are unaware and;

(3) To protect the adoptive parents from the later disturbance of their parental relationship with their child by the biological or prior legal parents of the child who may have some legal claim due to the failure to protect their legal rights.

(c) The purpose of this part shall also be to favor the rights of adopted persons and their families to obtain information concerning the lives of those persons and to permit them to obtain information about themselves from the adoption records to which they are entitled, but also to recognize the rights of parents and adoptees not to be contacted by the persons who obtain such information, except in compliance with this part.

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(d) In all cases, when the best interests of the child and those of the adults are in conflict, such conflict shall always be resolved to favor the rights and the best interests of the child, which interests are hereby recognized as constitutionally protected and, to that end, this part shall be liberally construed.

**T.C.A. § 36-1-102. Definitions.** (1) "**Abandonment**" means, for purposes of terminating the parental or guardian rights of a parent or parents or guardian of a child to that child in order to make that child available for adoption, that:

(A)(i) For a period of four (4) consecutive months immediately preceding the filing of a proceeding or pleading to terminate the parental rights of the parents or guardian of the child who is the subject of the petition for termination of parental rights or adoption, that those parents or guardians either have willfully failed to visit or have willfully failed to support or make reasonable payments toward the support of the child, or

(ii) The child has been removed from the home of the parent(s) or guardian(s) as the result of a petition filed in the juvenile court in which the child was found to be a dependent and neglected child, as defined in § 37-1-102, and the child was placed in the custody of the department or a licensed child-placing agency, that the juvenile court found, or the court where the termination of parental rights petition is filed finds, that the department or a licensed child-placing agency made reasonable efforts to prevent removal of the child or that the circumstances of the child's situation prevented reasonable efforts from being made prior to the child's removal; and for a period of four (4) months following the removal, the department or

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agency has made reasonable efforts to assist the parent(s) or guardian(s) to establish a suitable home for the child, but that the parent(s) or guardian(s) have made no reasonable efforts to provide a suitable home and have demonstrated a lack of concern for the child to such a degree that it appears unlikely that they will be able to provide a suitable home for the child at an early date; or

(iii) That a biological or legal father has either willfully failed to visit or willfully failed to make reasonable payments toward the support of the child's mother during the four (4) months immediately preceding the birth of the child; provided, however, that in no instance shall a final order terminating the parental rights of a parent as determined pursuant to (1)(A)(iii) be entered until at least thirty (30) days have elapsed since the date of the child's birth, or

(iv) A parent or guardian is incarcerated at the time of the institution of an action or proceeding to declare a child to be an abandoned child or the parent or guardian has been incarcerated during all or part of the four (4) months immediately preceding the institution of such action or proceeding and either has willfully failed to visit or has willfully failed to support or make reasonable payments toward the support of the child for four (4) consecutive months immediately preceding such parent's or guardian's incarceration, or the parent or guardian has engaged in conduct prior to incarceration which exhibits a wanton disregard for the welfare of the child.

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(B) For purposes of subdivision (1) the terms "willfully failed to visit" means the willful failure, for a period of four (4) consecutive months, to visit or engage in more than token visitation.

(C) For purposes of subdivision (1) the terms "willfully failed to support" or "willfully failed to make reasonable payments toward such child's support" means that, for a period of four (4) consecutive months, no monetary support was paid or that the amount of support paid is token support.

(D) For purposes of subdivision (1) the term "token visitation" means that the visitation, under the circumstances of the individual case, constitutes nothing more than perfunctory visitation or visitation of such an infrequent nature or of such short duration as to merely establish minimal or insubstantial contact with the child.

(E) For purposes of subdivision (1) the term "token support" means that the support, under the circumstances of the individual case, is insignificant given the parent's means.

(F) Abandonment may not be repented of by resuming visitation or support subsequent to the filing of any petition seeking to terminate parental or guardianship rights or seeking the adoption of a child.

(G) Abandonment shall not have any other definition except that which is set forth herein, it being the intent of the general assembly to establish the only grounds for abandonment by statutory definition. Specifically, it shall not be required that a parent be shown to have evinced a settled purpose to forego all parental rights and responsibilities in order for a

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determination of abandonment to be made. Decisions of any court to the contrary are hereby legislatively overruled.

(2) **"Adoptive parent(s)"** means the person(s) who have been made the legal parents of a child by the entry of an order of adoption under this part or under the provisions of the laws of any state, territory or foreign country.

(3) **"Adopted person"** means any person who is adopted under this part or under the laws of any State, territory, or foreign country and, for purposes of §§ 36-1-125 - 141, means a person with respect to whom any adoption record or sealed or post-adoption record is maintained whether or not an adoption petition was ever filed, was finalized, was dismissed, or was otherwise never completed.

(4) **"Adoptee"** means any person who is adopted or placed for adoption under this part or under the laws of any State, territory, or foreign country.

(5) **"Adoption"** means the social and legal process of establishing by court order, other than by paternity or legitimation proceedings or by voluntary acknowledgment of paternity, the legal relationship of parent and child.

(6) **"Adoption assistance"** means the federal or state programs which exist to provide financial assistance to adoptive parents to enable them to provide a permanent home to a special needs child as defined by the department of human services.

(7) **"Adoption record"** means the records, reports, and papers maintained: by the clerk or judge of the court where the adoption petition is filed, where a surrender or revocation

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of a surrender or parental consent is filed, or by the department, or by a licensed child-placing agency or licensed clinical social worker, and which record contains all social, medical, legal or other information concerning a person who has been placed for adoption or for an adopted person, and which exists prior its becoming a sealed adoption record. It shall also mean the record which is permanently maintained by the court of a termination or an adoption proceeding. Such record is confidential and, except as otherwise provided in this part, is not subject to disclosure by the court, by a licensed child-placing agency, licensed clinical social worker or by the department to any person or entity except for purposes directly related to the placement, care, treatment, protection or supervision of the adopted person, or for legal proceedings related to the placement of the person for adoption or for his or her adoption, or except as otherwise permitted by this part.

(8) **"Adult"** means any person who is eighteen (18) years of age or older. An adult may be adopted as provided herein.

(9) **"Biological parent(s)"** means the woman and man who physically or genetically conceived the child who is the subject of the adoption or termination proceedings or who conceived the child who has made a request for information pursuant to this part.

(10) **"Biological relative"** means with respect to the adopted person: the biological parents or child of the adopted person, any brother or sister of the whole or half blood of the adopted person, the blood grandparents of any degree of the adopted person, the blood aunts

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or uncles of any degree of the adopted person, or the blood cousins of the first degree of the adopted person.

(11) **"Child" or "Children"** means any person or persons under eighteen (18) years of age.

(12) **"Child caring agency"** means for purposes of this part any agency authorized by law to care for children outside their own homes for twenty-four (24) hours per day.

(13) **"Consent"** means, unless otherwise required by the context: (A) The written authorization to relinquish a child for adoption which is given by an agency such as the department or a public child welfare agency of another state or country or licensed child-placing agency of this or another state which agency has the authority, by court order or by surrender or by operation of law or by any combination of these, to place a child for adoption and to give permission for the adoption of that child by other persons;

(B) The written permission of a parent pursuant to §36-1-117(f) to permit the adoption of that parent's child by that parent's relative or by the parent's spouse who is the child's step-parent.

(C) The process as described in § 36-1-117(g) by which a parent co-signs an adoption petition, with the prospective adoptive parents, for the purpose of agreeing to make the child available for adoption by the co-petitioning prospective adoptive parents and which permits the court to enter an order of guardianship to give the adoptive parents custody and supervision of



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the child pending the completion or dismissal of the adoption proceedings or pending revocation of the consent by the parent. This process shall be called a "parental consent".

(D) The permission of a child fourteen(14) years of age or older given to the court in chambers to the court before the entry of an order of adoption of such child.

(E) The permission of a guardian ad litem for a disabled child or an adult permitting the adoption or those persons pursuant to the procedures of § 36-1-117(i) and (j).

(F) The sworn, written permission of an adult person filed with the court where the adoption petition is filed which seeks the adoption of the adult.

(G) The agreement for contact by the parties to the post adoption records search procedures which may be required in §§ 36-1-127-36-1-141.

(14) **"Court"** means (A) The chancery or circuit court; provided, however, that the term shall include the juvenile court for purposes of the authority to accept the surrender or revocation of surrenders of a child and to issue any orders of reference, orders of guardianship, or other orders resulting from a surrender or revocation which it accepts and for purposes of authorizing the termination of parental rights pursuant to § 36-1-113 and title 37, chapter 1, part 1 and title 37, chapter 2, part 4.

(B) All appeals of any orders relative to the juvenile court's actions in taking a surrender or revocation or in terminating parental rights shall be made to the Court of Appeals as provided by law.

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(C) A juvenile court referee, appointed by the juvenile judge pursuant to the provisions of title 37, shall have authority to take a surrender of a child and to take a revocation of such surrender and no order of confirmation by the juvenile judge of the orders concerning surrenders and revocations shall be required; provided, however, the referee's order recommending termination of parental rights shall require an order of confirmation by the juvenile judge.

(15) **"Court report"** means the report to the adoption or surrender court in response to an order of reference which describes to the court the status of the child and the prospective adoptive parents or the persons to whom the child is surrendered. Such a report may be preliminary, supplementary, or final in nature.

(16) **"Department"** means the Tennessee department of human services or any of its divisions or units.

(17) **"Final court report"** means a written document completed by the department or a licensed child-placing agency or licensed clinical social worker after submission of any prior court reports in response to the court's order of reference. It gives information concerning the status of the child in the home of the prospective adoptive parents and gives a full explanation to the court of the suitability of the prospective adoptive parent(s) to adopt the child who is the subject of the adoption petition. The final court report is designed to bring the status of the proposed adoptive home and the child up-to-date immediately prior to finalization of the

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adoption and should be the last report the court receives before finalization of the adoption by entry of an order of adoption.

(18) **"Financially able"** means that the petitioners for adoption of a child are able, by use of any and all income and economic resources of the petitioners, including, but not limited to, assistance from public or private sources, to ensure that any physical, emotional, or special needs of the child are met.

(19) **"Foster care"** means, for purposes of this part, the provision of full-time temporary out-of-home care for a child in a private residence by one or more persons (foster parents) who have been trained and approved by the department or a licensed child-placing agency to care for children who, for various reasons, can no longer remain in their own home, or the full-time care provided by prospective adoptive parents who have received a child as a result of the surrender of parental rights, a parental consent, or as the result of a termination of parental rights.

(20) **"Foster parent"** means a person who has been trained and approved by the department or licensed child-placing agency to provide full-time temporary out-of-home care in a private residence for children who, for various reasons, can no longer remain in their own homes, or the prospective adoptive parents who have received a child as a result of the surrender of parental rights, a parental consent, or as the result of a termination of parental rights.

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(21) **"Guardian" or "Co-Guardian"** (A) means, for purposes of this part, a person or persons or an entity, other than the parent of a child, appointed by a court or defined by law specifically as "guardian" or "co-guardian" or "conservator" to provide supervision, protection for and care for the person or property, or both, of a child or adult.

(B) "Guardian" or "Co-Guardian" shall also mean a person or entity appointed as guardian(s) as the result of a surrender, parental consent, or termination of parental rights.

(C ) The rights of the individual guardian or co-guardian or conservator of the person of a minor child or of an adult must be terminated by a surrender or court action before an order of adoption can be entered; provided, however, an individual or individuals who receive(s) guardianship pursuant to a surrender, parental consent, or termination of parental rights pursuant to this part or Title 37 need not give consent to the adoption when he or she is the petitioner in an adoption.

(D) When the department, a licensed child-placing agency, or a child-caring agency is the guardian of the child, its rights must be terminated by court action or it must provide consent as defined in subsection (13)(A) before an adoption can be ordered.

(22) **"Guardianship" or "Co-Guardianship"** (A) means for purposes of subsection (21), a person or entity having the status of being a guardian or co-guardian who or which is responsible for the provision of supervision, protection, and assistance to the person of a child under this part or under other provisions of the law of this or any other jurisdiction.

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(B) Guardianship as a result of a surrender, consent, or termination of parental rights pursuant to this part or Title 37 or the law of any other jurisdiction may be "complete" or "partial".

(C)(i) For purposes of this part, a person or entity has "complete" guardianship for the purpose of permitting a court to order an adoption when all necessary parental or guardianship rights have been terminated by surrender, by consent, by waiver of interest, or by involuntary termination of parental rights proceedings by a court or otherwise, and the court(s) with jurisdiction to do so enters an order or orders granting guardianship status to the person or entity.

(ii) Complete guardianship pursuant to a surrender or consent under this part or pursuant to the termination of the rights of a parent or guardian of a child under this part or under Title 37, and pursuant to the entry of an order of guardianship as provided herein, shall entitle the person or entity to the right to care for the child as provided under § 37-1-140 or as otherwise provided by the court order, and, shall permit the entity to place the child for adoption and to consent to the adoption, or shall permit the individual to be granted an adoption of the child, and shall authorize the court to proceed with and grant an adoption, without further termination of parental or guardian rights.

(D)(i) For purposes of this part, a person or entity has "partial guardianship" when a surrender or consent has been received from at least one, but not all parents or guardians of the child or when a court-ordered termination of parental or guardianship rights has been obtained against at least one, but not all parents or guardians of the child, and the court has

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entered an order granting guardianship of the child to the petitioning person or entity, and the remaining parent or guardian of the child has not executed a surrender or consent or his or her parental or guardianship rights have not been terminated by waiver of interest pursuant to this part, court order, or otherwise.

(ii) Partial guardianship obtained pursuant to a surrender or consent or pursuant to an order terminating less than all parental rights, and an order of partial guardianship pursuant to this part or pursuant to Title 37 shall entitle the person or entity to provide care, supervision, and protection of the child pursuant to the provisions of §37-1-140, or to the extent permitted by the court order granting partial guardianship, but it shall not be effective to allow full consent to an adoption by an entity without termination by surrender or court order or otherwise of the remaining parental or guardianship rights of other parents or guardians and shall not authorize the court to grant an adoption to an individual until all remaining parental or guardianship rights have been surrendered, terminated, or otherwise ended; provided, however, the department or licensed child-placing entity may place a child for adoption with prospective adoptive parents and may consent to the adoption of the child by those prospective adoptive parents when the department or the licensed child-placing agency has partial guardianship and the prospective adoptive parents then shall be required to obtain complete guardianship of the child by surrender, termination of parental rights, waiver of interest, or parental consent to effect the adoption of the child.

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(23) **"Home study"** means the product of a preparation process in which individuals or families are assessed by themselves and the department or licensed child-placing agency, or a licensed clinical social worker as to their suitability for adoption and their desires with regard to the child they wish to adopt. The home study shall conform to the requirements set forth in the rules of the department and it becomes a written document which is used in the decision to approve or deny a particular home for adoptive placement. Any home study conducted by a licensed child-placing agency, licensed clinical social worker or the department which has been completed or updated within six (6) months prior to the date of the surrender or order of reference shall be accepted by the court for purposes of §§ 36-1-111 and 36-1-116.

(24) **"Interstate Compact on the Placement of Children (ICPC)"** means the provisions of Tennessee Code Annotated §§ 37-4-201--207 relating to the placement of a child between states for the purposes of foster care or adoption. The ICPC is administered in Tennessee by the department of human services through its state office in Nashville.

(25) **"Legal parent"** means, for purposes of this part:

(A) The biological mother of a child;

(B) A man who is or has been married to the biological mother of the child if the child was born during the marriage or within 300 days after the marriage was terminated for any reason, or if the child was born after a decree of separation was entered by a court;

(C) A man who attempted to marry the biological mother of the child before the child's birth by a marriage apparently in compliance with the law, even if the marriage is declared

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invalid, if the child was born during the attempted marriage or within 300 days after the termination of the attempted marriage for any reason;

(D) A man who has been adjudicated to be the legal father of the child by any court or administrative body of this state or any other state or territory or foreign country or who has signed, pursuant to §§24-7-118, 68-3-203(g), 68-3-302 and 68-3-305(b), an unrevoked and sworn acknowledgment of paternity under the provisions of Tennessee law, or who has signed such a sworn, acknowledgment pursuant to the law of any other state, territory, or foreign country; or,

(E) An adoptive parent of a child or adult.

(26) **"Legal relative"** means the person who is included in the class of persons set forth in the definition of "biological relative" or "legal parent", and who, at the time a request for search services or information is made pursuant to §§ 36-1-127--36-1-131, and §§36-1-133--36-1-138, is related to the adopted person by any legal relationship established by law, court order, or by marriage, but specifically includes, in addition, a step-parent.

(27) **"Legal representative"** means (A) The conservator, guardian, legal custodian, or other person or entity with legal authority to make decisions for an individual with a disability, or an attorney-in-fact, an attorney-at-law representing a person for purposes of obtaining information pursuant to this part, or the legally appointed administrator, executor, or other legally appointed representative of a person's estate, or



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(B) Any person acting under any durable power of attorney for health care purposes or any person appointed to represent a person and acting pursuant to a living will.

(C) For purposes of this definition, "disability" means that the individual is a minor pursuant to any state, territorial, or federal law, or the law of any foreign country or that the individual has been determined by any such laws to be in need of a person or entity to care for the individual due to that individual's physical or mental incapacity or infirmity.

(28) **"Licensed child-placing agency"** means any agency operating under a license to place children for adoption issued by the department, or operating under a license from any governmental authority from any other state or territory or the District of Columbia, or any agency which operates under the authority of another country with the right to make placement of children for adoption and which has, in the department's sole determination, been authorized to place children for adoption in the state of Tennessee.

(29) **"Licensed clinical social worker"** means, for purposes of this part an individual who holds a license as an independent practitioner from the board of social worker certification and licensure pursuant to § 63-23-101 et seq. and, in addition, is licensed by the department to provide foster care placement services and adoption placement services.

(30) **"Lineal descendant"** means a person who descended directly from another person who is the biological or adoptive ancestor of such person, such as the daughter of her mother or granddaughter of her grandmother.

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(31) **"Order of reference"** means the order from the court where the surrender is executed or filed or where the adoption petition is filed which directs the department or a licensed child-placing agency or licensed clinical social worker to conduct a home study or preliminary home study or to complete a report of the status of the child who is or may be the subject of an adoption proceeding and which seeks information as to the suitability of the prospective adoptive parents to adopt a child.

(32) **"Parents"** means any biological, legal, adoptive parent(s), or for purposes of §§ 36-1-127 - 141, step-parents.

(33) **"Post-adoption record"** means the record maintained by the department or a licensed child-placing agency or licensed clinical social worker, separately from the sealed adoption record, containing information about adopted persons or the legal or biological relatives subsequent to the completion of an adoption proceeding and which may contain information concerning, but not limited to, the contact veto registry established by this part, the written inquiries from persons requesting access to records, the search efforts of the department pursuant to the requirements of the contact veto process, the response to those search efforts by those persons sought, information which has been requested to be transmitted from or on behalf of any persons entitled to access or entitled to request review of the contact veto registry pursuant to this part, any updated medical information gathered pursuant to this part, and any personal identifying information concerning any persons subject to the provisions of this part. This term shall also include the "limited record" as described in § 36-1-126(b). The

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information in the post-adoption record is confidential and will not be disclosed by the department or the licensed child-placing agency or licensed clinical social worker or a court except as specifically permitted in this part, or as may be deemed necessary by the department in performing its duties under this part.

(34) **"Parental consent"** means the consent described in subdivision (13)(C).

(35) **"Parental rights"** means the legally recognized rights to act as a parent, to care for, to name, and to claim custodial rights with respect to a child.

(36) **"Preliminary home study"** means:

(A) An initial home study conducted prior to or, in limited situations, immediately after, the placement of a child with prospective adoptive parents who have not previously been subject to a home study which was conducted or updated not less than six (6) months prior to the date a surrender is sought to be executed to the prospective adoptive parents or prior to the date of the filing of the adoption petition.

(B) The preliminary home study is designed to obtain an early and temporary initial assessment of the basic ability of prospective adoptive parents to provide adequate care for a child who is proposed to be adopted by those prospective adoptive parents and is utilized only for the purpose of approval of surrenders or for purposes of responding to an order of reference pursuant to § 36-1-116(e)(2) or for purposes of entering a guardianship order under §36-1-116(f)(3).

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(C) The preliminary home study shall consist of a minimum of two(2) visits with the prospective adoptive parents at least one of which shall be in the home of the prospective adoptive parents and the study shall support the conclusion that no apparent reason exists why the prospective adoptive parents would not be fit parents for the child who is the subject of the adoption. To be valid for use in accepting a surrender or in the execution of a parental consent, the preliminary home study must have been completed or updated within thirty (30) days prior to the date the surrender is accepted or the parental consent is executed or the guardianship order is entered.

(37) **"Prospective adoptive parents"** means a non-agency person or persons who are seeking to adopt a child and who have made application with a licensed child-placing agency or licensed clinical social worker or the department for approval, or who have been previously approved, to receive a child for adoption, or who have received or who expect to receive a surrender of a child, or who have filed a petition for termination or for adoption.

(38) **"Related"** means grandparents or any degree of great-grandparents, aunts or uncles, or any degree of great-aunts or uncles, or step-parent, or cousins of the first degree.

(39) **"Sealed adoption record"** means the adoption record which had been prepared or compiled by the clerk or judge of the court where the adoption petition was filed, by the department, or a licensed child-placing agency or by a licensed clinical social worker, concerning an adopted person or a person placed for adoption as the record exists subsequent to the entry of an order of adoption or subsequent to the entry of an order of dismissal of the

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adoption petition, or which may be in any stage of preparation for transmittal to the state office of the department, or which has been forwarded to the department pursuant to §36-1-126 by the department's county or district offices, the licensed child-placing agency or licensed clinical social worker, or the county, regional, or state offices of the department of health. The definition shall also include the limited record maintained by the licensed child-placing agency or licensed clinical social worker pursuant to § 36-1-126(b)(2) and contact veto registry information which is maintained by the department. The sealed adoption record shall be processed for safekeeping as described by § 36-1-126. Such records and the information therein shall be confidential and shall be opened only as provided in this part.

(40) **"Sibling"** means anyone having a sibling relationship.

(41) **"Sibling relationship"** means, for purposes of this part, the biological or legal relationship between persons who have a common biological or legal parent.

(42) **"Surrender"** means a document executed under the provisions of § 36-1-111 or under the laws of another state or territory or country, by the parent or guardian of a child, by which that parent or guardian relinquishes all parental or guardianship rights of that parent or guardian to a child, to another person or public child welfare agency or licensed child-placing agency for the purposes of making that child available for adoption.

(43) **"Surrogate birth"** means:

(A) The union of the wife's egg and the husband's sperm which are then placed in another woman who carries the fetus to term and, pursuant to a contract, which other woman

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then relinquishes all parental rights to the child to the biological parents pursuant to the terms of the contract; or

(B) The insemination of a woman by the sperm of a man under a contract by which the parties state their intent that the woman who carries the fetus shall relinquish the child to the biological father and his wife to parent.

(C) No surrender pursuant to this part is necessary to terminate any parental rights of the woman who carried the child to term under these circumstances and no adoption of the child by the biological parent(s) is necessary.

(D) Nothing herein shall be construed to expressly authorize the surrogate birth process in Tennessee unless otherwise approved by the courts or the general assembly.

**T.C.A. § 36-1-103. Prior adoptions and terminations of parental rights involving minors and prior adoptions of adults ratified.** (a) All proceedings for the adoption of children in the courts of this state, including any proceedings which terminated parental or guardianship rights, are hereby validated and confirmed and the orders and judgments entered therein prior to the date of the passage of this act are declared to be binding upon all parties to the proceedings and their privies and all other persons, until such orders or judgments shall be vacated as provided by law; provided, that this section does not apply to adoption proceedings or terminations of parental rights proceedings actually pending on the date of the passage of this act in which the validity of a prior adoption or termination of parental rights proceeding is at issue.

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(b) Adoptions and terminations of parental rights pending on the date this act is effective and surrenders and consents executed prior to the effective date of this act shall be governed by prior existing law.

(c) All adoptions of persons who are adults as of the effective date of this act which were completed before the effective date of this act in the courts of this state, pursuant to the then existing provisions of this part, are hereby in all things ratified and confirmed.

**T.C.A. § 36-1-104. Withholding of material information concerning the status of the parents or guardian of a child subject to surrender, termination of parental rights or adoption--Misdemeanor.** Any person who, upon request by any party to an adoption or their agent or attorney, a licensed child-placing agency or licensed clinical social worker, the department, or the court, knowingly and willfully withholds any information related to the child who is the subject of a surrender, a termination of parental rights, or an adoption proceeding, or who knowingly and willfully withholds any unprivileged and material information concerning the identity, status, or whereabouts of the child's parent(s) or guardian(s), or who knowingly and willfully gives false information concerning the child or the identity, status, or whereabouts of the child's parents or guardian shall be guilty of a Class A misdemeanor.

**T.C.A. § 36-1-105. Violation of criminal provisions of part by state employees--Dismissal.** Any employee of the state of Tennessee who is convicted of the violation of any of the criminal provisions of this part shall be instantly dismissed from the state service and shall never again be eligible for employment in state service.

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**T.C.A. § 36-1-106. Readoption.** (a) Any minor child who was previously adopted under the laws of any jurisdiction may be subsequently readopted in accordance with the provisions of this part.

(b) With respect to a child sought to be adopted a second time or subsequent time by new adoptive parents, all provisions in this part relating to the biological parents or legal parents or guardians shall apply to the prior adoptive parents, except that in no case of readoption shall a biological or legal parent or guardian whose rights were previously terminated before the child was initially adopted and whose rights were not subsequently restored be made a party to the new adoption proceeding, nor shall their surrender, parental consent, or waiver of interest be necessary. The prior adoptive parents whose rights have not been previously terminated and any other persons who otherwise would be entitled to notice pursuant to this part subsequent to the previous adoption of the child shall be the only necessary parties to the new termination or adoption proceedings and only their surrenders or parental consent, or the termination of their rights shall be necessary.

(c) With respect to a child sought to be readopted under the laws of this state who has been previously adopted pursuant to the laws of a foreign country, the circuit and chancery courts are specifically authorized to enter new orders of adoption as they may be required for purposes of compliance with any requirements of the government of the United States for children who were adopted in foreign countries. In such instances, if an adoption was conducted in accordance with the laws of the foreign jurisdiction, no further termination of parental rights of



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the child's parents or guardians need be made, no home study need be conducted, and no time period for which an adoption petition must be on file before a final adoption order is entered shall be required.

**T.C.A. § 36-1-107. Persons to whom this part is applicable.** (a) Any person, irrespective of place of birth, citizenship, or place of residence, may be adopted or readopted in accordance with the provisions of this part.

(b) A single person may file a petition for the adoption of a child.

(c) An adult may be adopted.

**T.C.A. § 36-1-108. Entities authorized to place children for adoption--Advisory and agency capacities authorized.--Injunctions to stop illegal placements.** (a) No person, corporation, agency, or other entity except the department or a licensed child-placing agency or licensed clinical social worker as defined in § 36-1-102, shall engage in the placement of children for adoption; provided, however, that this section shall not be construed to prohibit any person from advising parents of a child or prospective adoptive parents of the availability of adoption or from acting as an agent or attorney for the parents of a child or prospective adoptive parents in making necessary arrangements for adoption so long as no remuneration, fees, contributions, or things of value are given to or received from any person or entity for such service other than usual and customary legal and medical fees in connection with the birth of the child or other pregnancy-related expenses, or for counseling for the parent(s) and/or the child, and for the legal proceedings related to the adoption.

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(b) "Placement of a child or children for adoption" means for purposes of this part and for licensing purposes in title 71, chapter 3, part 5 and for § 71-3-516 that a person, corporation, agency, or other entity is employed, contracted, or engaged, in any manner for any remuneration, fee, contribution, or thing of value, of any type by, or on behalf of, any person:

(1) In the selection of prospective adoptive parents for a child by determining the relative qualifications of prospective adoptive parents in a decision by that person, corporation, agency, or other entity to place any child or children, including specifically, but not limited to, the preparation of home studies, preliminary home studies, court reports for surrenders or adoptions, or the provision of supervision of a child in a foster home or adoptive home as part of the adoptive process; or

(2) In the business of arranging services or assistance directed primarily, and not as an incidental part of its primary business, toward bringing to or placing with prospective adoptive parents a child or children for the purpose of foster care leading to adoption or as an adoptive placement for a child or children; provided that this shall not include the provision of reasonable and necessary legal services related to the adoption proceedings, or medical or counseling services for the child or the parent in connection with the child's birth or in connection with the parent's decision to relinquish the child for adoption or for counseling services for the prospective adoptive parents.

(c)(1) Any court of competent jurisdiction, upon the filing of a sworn complaint by the department or by a licensed child-placing agency, or by any person aggrieved, may temporarily

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enjoin or restrain any person, corporation, agency, or other entity from engaging or attempting to engage in placing children for adoption in violation or in threatened violation of this part or title 71, chapter 3, part 5, and upon final hearing, if the court determines that there has been a violation, or threatened violation, thereof, the injunction shall be made permanent.

(2) If the court finds that any person, corporation, agency, or other entity has engaged in the illegal placement of children for adoption, that person, corporation, agency, or other entity shall be liable for all the costs of the legal proceedings and for all attorneys fees for private persons or private agencies who brought the action, or for the cost of attorney and staff time for the department, involved in the proceeding.

(d)(1) In order to allow the prospective adoptive parents to have information available to them to permit informed choices regarding the employment of persons or entities involved in the placement of children, or in counseling, or in the provision of legal services, the department shall collect the information concerning fees or other costs charged by licensed child-placing agencies, licensed clinical social workers, attorneys, and counseling services which are disclosed in accordance with §§ 36-1-111(k)(3)(A), 36-1-116(b)(16), and 36-1-120(b).

(2) This information shall be used by the department to develop an informational database in order for the department to provide, upon request of prospective adoptive parents or other interested persons, information concerning fees charged for home studies, placement services, counseling and legal fees. Such information shall be made available by the department in written form to any person so requesting.

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(3) The department is specifically authorized to promulgate rules pursuant to § 4-5-201 et seq. to regulate fees charged by licensed child-placing agencies and licensed clinical social workers or their practices, if it determines that the practices of those licensed child-placing agencies or licensed clinical social workers demonstrate that the fees charged are excessive or that any of the agency's practices are deceptive or misleading; provided, however, such rules regarding fees shall take into account the use of any sliding fee by an agency or licensed clinical social worker which or who use a sliding fee procedure to permit prospective adoptive parents of varying income levels to utilize the services of such agencies or persons.

(4) The department shall promulgate rules pursuant to § 4-5-201 et seq. to require that all licensed child-placing agencies and licensed clinical social workers provide written disclosures to all prospective adoptive parents of any fees or other charges for each service performed by the agency or person and to file an annual report with the department which states the fees and charges for those services and to require them to inform the department in writing thirty(30) days in advance of any proposed changes to the fees or charges for those services.

(5) The department is specifically authorized to disclose to prospective adoptive parents or other interested persons any fees charged by any licensed child-placing agency, licensed clinical social worker, attorney or counseling service or counselor for all legal and counseling services provided by that licensed child-placing agency, licensed clinical social worker, attorney or counseling service or counselor.

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**T.C.A. § 36-1-109.--Illegal payments in connection with placement of child.--**

**Penalty.** (a) It is unlawful for any person, corporation, agency, or other entity other than the department, or a licensed child-placing agency or licensed clinical social worker as defined in § 36-1-102 which is subject to regulation by the department to:

(1)(A) Charge or receive from or on behalf of any person or persons legally adopting or accepting a child for adoption any remuneration, fee, contribution, or thing of value whatsoever for rendering any service described in § 36-1-108 in connection with the placement of such child for adoption or in connection with the placement of such child for foster care or adoption with one other than his or her parent(s) other than that now or hereafter allowed by law;

(B) Provided that this section shall not be construed to prohibit the payment by any interested person of reasonable charges or fees for hospital or medical services for the birth of the child, or for medical care and other reasonable birth-related expenses for the mother and/or child incident thereto, for reasonable counseling fees for the parents or prospective adoptive and/or child, for reasonable legal services or the reasonable costs of legal proceedings related to the adoption of any child or for reasonable expenses for housing, food, maternity clothing, child's clothing, utilities, or transportation, for a reasonable time not to exceed ninety (90) days prior to or thirty (30) days after the birth or surrender or parental consent to the adoption of the child; provided, that such expenses are incurred directly in connection with the maternity, birth, and/or placement of the child for adoption, or for legal services or for costs of legal proceedings

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directly related to the adoption of the child, or counseling for a period of up to one(1) year for the parent who surrenders or consents to the adoption of the child;

(2) Sell or surrender a child to another person for money or anything of value; and it is unlawful for any person to receive such minor child for such payment of money or thing of value; however, nothing herein shall be construed as prohibiting any person who is contemplating adopting a child not yet born or surrendered or for whom a parental consent may be given from payment of the expenses set forth in subdivision (a)(1)(B);

(3) Having the rights and duties of a parent or guardian with respect to the care and custody of a minor child, assign or transfer such parental or guardianship rights for the purpose of, incidental to, or otherwise connected with, selling or offering to sell such rights and duties for money or anything of value; or

(4) Assist in the commission of any acts prohibited in subdivisions (a)(1), (2), or (3).

(b) A violation of this section is a Class C felony.

(c) Any adoption completed before March 27, 1978 shall not be affected by this section.

**T.C.A. § 36-1-110. Parent under eighteen--Surrender.** (a) A parent who has not reached eighteen (18) years of age shall have the legal capacity to surrender a child or otherwise give parental consent to adoption or execute a waiver of interest and to release such parent's rights to a child, and shall be as fully bound thereby as if the parent had attained eighteen (18) years of age.

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(b) The court shall have the authority to appoint a guardian ad litem for the minor parent of a child who may be surrendered or for whom a parental consent or wavier of interest is given if deemed necessary to advise and assist the minor parent with respect to surrender, parental consent, waiver, or termination of the minor parent's parental rights.

**T.C.A. § 36-1-111. Pre-surrender request for home study or preliminary home study--Surrender of child--Consent for adoption by parent--Effect of Surrender--Form of surrender--Waiver of interest.** (a)(1) Prior to receiving a surrender by a parent of a child or prior to the execution of a parental consent by a parent in a petition for adoption, the prospective adoptive parents may request that a licensed child-placing agency, a licensed clinical social worker, or, if indigent under federal poverty guidelines, the department, to conduct a home study or preliminary home study for use in the surrender, or parental consent proceeding, or in the adoption.

(2) The home study or preliminary home study must be available to the court or, when using a Tennessee surrender form, to the persons under subsections (h), (i), or (j), and, before the surrender to prospective adoptive parents is executed, the study must be reviewed by the court or persons under those subsections in any surrender proceeding in which the surrender is not made to the department or a licensed child-placing agency. When a parental consent is executed, the home study or preliminary home study must be filed with the adoption petition, and must be reviewed by the court before the entry of an order of guardianship giving the prospective adoptive parents guardianship of the child.

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(3) All home studies and preliminary home studies submitted under this subsection shall be confidential and shall not be open to inspection by any person except by order of the court entered on the minute book. The court shall, however, disclose to prospective adoptive parents any adverse reports, but shall protect the identities of any person reporting child abuse or neglect in accordance with law.

(b) All surrenders must be made in chambers before a judge of the chancery, circuit, or juvenile court except as provided herein, and the court shall advise the person(s) surrendering the child of the right of revocation of the surrender and time for the revocation and the procedure for such revocation.

(c) A surrender or parental consent may be made or given to any prospective adoptive parent who has attained eighteen (18) years of age, the department, or a licensed child-placing agency in accordance with the provisions of this section.

(d)(1) No surrender or any parental consent shall be valid which does not meet the requirements of subdivision (a)(2).

(2) No surrender or parental consent shall be valid which is made prior to the birth of a child, except a surrender executed in accordance with subsection (h).

(3) No surrender or parental consent shall be valid which is made within three (3) days subsequent to the date of the child's birth, such period to begin on the day following the child's birth; provided, however, the court may, for good cause shown which is entered in an order in the minute book of the court, waive this waiting period.



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(4) No surrender or parental consent shall be valid if the surrendering or consenting party states a desire to receive legal or social counseling under subsection (k)(2)(E) and (k)(2)(F) until certification of satisfaction or withdrawal of such request is received by the court as provided in subsection (1).

(5) No surrender or parental consent shall be sufficient to make a child available for adoption in any situation where any other person(s), the department, a licensed child-placing agency, or other child-caring agency in this state or any state, territory, or foreign country is exercising the right to physical custody of the child under a current court order at the time the surrender is sought to be executed or when a parental consent is executed, or when those persons or entities have any currently valid statutory authorization for custody of the child.

(6) No surrender shall be valid unless the person(s) or entity to whom or to which the child is surrendered or parental consent is given:

(A) Has, at a minimum, physical custody of the child; or

(B) Will receive physical custody of the child from the surrendering parent or guardian within five (5) days of the surrender, as evidenced by the affidavit of the person(s) receiving the surrender and by affidavit of the surrendering or consenting parent or guardian or court order; or

(C) Has the right to receive physical custody of the child upon the child's release from a health care facility as evidenced by an affidavit of the person(s) or entities receiving the child and by the affidavit of the surrendering or consenting parent or guardian or court order; or

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(D) Has a sworn, written statement from the person, the department, the licensed child-placing agency, or child-caring agency which has physical custody pursuant to subdivision (5) which waives the rights pursuant to that subdivision.

(e) The surrender form shall incorporate a provision stating to the surrendering parent or guardian the beginning and ending period for revocation of the surrender and the procedures for revoking the surrender, and shall include a place in which the date of the expiration of the revocation period shall be inserted.

(f) The commissioner of the department or his or her authorized representatives or a licensed child-placing agency through its authorized representatives may accept the surrender of a child and they shall be vested with guardianship or partial guardianship of the child in accordance with the provisions of this section and § 36-1-102; provided, however, that the department or any licensed child-placing agency may refuse to accept the surrender of any child.

(g) In any surrender proceeding, the court or other person authorized herein to conduct a surrender proceeding, and when a parental consent is executed in the adoption petition, the court shall require that the person(s) surrendering the child for adoption or the person(s) giving consent and the person(s) accepting the child through the surrender or receiving parental consent to satisfactorily prove their identities before the surrender is executed or the parental consent is accepted, and no surrender or parental consent may be executed in any form in which the identities of the person(s) executing the surrender or parental consent or the

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person(s) or agencies receiving the surrender or the identity of the child whose name is known are left blank or in any form in which those persons, the child, or agencies are given pseudonyms on the form or in the petition at the time of the execution of the surrender or parental consent.

(h) In cases where the person executing the surrender resides in another state or territory of the United States, the surrender may be made in accordance with the laws of such state or territory or may be made before the judge or chancellor of any court of record or before the clerk of any court of record of such state or territory and such surrender shall be valid for use in adoptions in this state.

(i) In cases where the surrendering person using the Tennessee form of surrender or the form provided by applicable law resides or is temporarily in a foreign country, the surrender may be made before any officer of the United States armed forces authorized to administer oaths, or before any officer of the United States foreign service authorized to administer oaths. A citizen of a foreign country may, in accordance with the law of the foreign country, execute a surrender of a child which states that all parental rights of that person are being terminated or relinquished by the execution of the document or that the child is being given to an agency or other person for the purposes of adoption.

(j) In cases where the person executing the surrender is incarcerated in a state or federal penitentiary, the surrender may be executed before the warden of the penitentiary;

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provided, that the signature of the person executing the surrender and the signature of the warden before whom the surrender is executed are acknowledged before a notary public.

(k)(1) Prior to execution of the surrender or confirmation of the parental consent, the judge or other person authorized to conduct the surrender proceeding or the judge of the court where the adoption petition is filed, or at their direction, the clerk of the court or an employee of the court or of the person conducting the proceeding, shall obtain, under oath, from the person surrendering the child or executing the parental consent, information concerning the child's and the surrendering parent's social and medical history and the social and medical history of the parent's biological relatives, which shall be recorded on a form prepared by the department. Where the surrender occurs in another jurisdiction, an equivalent form with the same amount and nature of information required in the department form may be used. The form filed with the court shall be kept by the court in a separate file designated for that purpose until it is forwarded to the court where the adoption petition is filed and it shall be confidential and shall not be inspected by any person without the written approval of the court. A copy of the information with all identifying information deleted shall be furnished to the adoptive parents or their attorney.

(2) In all cases where a surrender of a child for adoption is made in Tennessee or using a Tennessee surrender form or where a parental consent has been executed, the judge or other person conducting the surrender or consent proceeding shall interview the persons executing the surrender privately in chambers or in a private area and in the presence of the person's legal counsel, if the surrendering parent requests the presence of legal counsel, and shall

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obtain from the persons, under oath, the following information; provided, however, that the court's officer or other employee of the court or the person conducting the surrender proceeding may be present in the discretion of the court or the person conducting the surrender proceeding:

(A) A statement of the surrendering or consenting parent identifying any other legal or biological parent or legal guardian of the child being surrendered or for whom parental consent is being given and their whereabouts or a statement that the identity or whereabouts of such other parent or guardian is not known;

(B) Whether the child is of Native American heritage and the tribal organization of which the child is a member or in which the child is eligible for membership, if known;

(C) Whether the child is intended to be sent out of state for the purposes of adoption, and, if the child surrendered is to be adopted under the laws of any jurisdiction other than Tennessee, a statement of the surrendering parent or guardian stating that the surrendering parent or guardian elects to have the surrender governed in all respects by Tennessee law, including choice of law;

(D) Whether the person has paid or received or has been promised any money or other remuneration or thing of value in connection with the birth of the child or placement of the child for adoption and, if so, to or from whom, the specific amount, and the purpose for which it was or is to be paid or received;

(E) Whether such person desires counseling from the department or a licensed child-placing agency or a licensed clinical social worker concerning the decision to surrender or give

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parental consent to the adoption of the child and if the person has been made aware of any assistance which might be available to the person should the person decide not to place the child for adoption;

(F) Whether the person is represented by legal counsel and if not, whether the person wishes to consult with legal counsel prior to execution of the surrender or prior to the confirmation of the parental consent;

(G) Whether such person is freely and voluntarily executing the surrender or parental consent with full knowledge of its consequences and whether such person knows and understands the right to revoke the surrender or consent and the time limits in which the revocation may be executed;

(H) Whether the child is possessed of any real or personal property of any kind, or has any expectation of any real or personal property and the nature of such interest;

(I) A statement of the surrendering parent or guardian concerning whether that parent or guardian or some other person(s) or entity has legal and/or physical custody of the child at the time of the surrender or whether they intend to give custody to the prospective adoptive parents, the department or a licensed child-placing agency.

(3)(A) The court shall require the person(s) surrendering the child for adoption or consenting to the child's adoption to complete the portion of the surrender or a parental consent form which indicates whether he or she desires, or wishes to veto, further contact with other

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persons eligible under this part to have contact with the surrendering parent at a later time in accordance with §§ 36-1-127--36-1-131.

(B) The form which the surrendering or consenting parent signs shall notify the parent that he or she may withdraw or vary his or her veto or consent at any time and the form, or an attachment to the form, shall inform the parent of the procedures for doing so.

(C) Upon receipt of the completed form, the department shall enter the surrendering or consenting person's request on the contact veto registry and shall maintain a copy of the form and all modifications to the form as part of the post-adoption record.

(4)(A) The court or persons authorized to receive the surrender shall obtain from the prospective adoptive parents receiving the surrender at the time of the execution of the surrender, or the court shall obtain, at the time an order of guardianship is entered which is based upon the execution of a parental consent, a statement of the fees paid to any person(s), licensed child-placing agency, licensed clinical social worker, attorney, or other entity for the placement of the child or for legal costs or any other costs related in any way to the adoption or placement for adoption of the child as of the time the surrender is executed or at the time the parental consent is executed;

(B) In the case of a surrender the court shall obtain a statement of the prospective adoptive parents that if the child is to be removed from Tennessee for adoption out of state that there will be compliance with the Interstate Compact on the Placement of Children and how that compliance is to be effected;

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(l)(1) In the case of a surrender directly to prospective adoptive parents, if the person surrendering the child desires under subdivision (k)(2)(E) to have counseling prior to execution of the surrender and the child is being surrendered directly to the prospective adoptive parents, the prospective adoptive parents shall, if so requested by the surrendering person(s), compensate a licensed child-placing agency, a licensed clinical social worker, or the department for such counseling, which must be certified as having been completed before the surrender can be executed;

(2) If the person surrendering the child states a desire under subdivision (k)(2)(F) to have legal counseling prior to or during the execution of a surrender directly to the prospective adoptive parents, the prospective adoptive parents shall, if so requested by the surrendering person(s), compensate the attorney for such counseling sought, which must be certified as having been completed before the surrender can be executed;

(3) The payment of compensation by the prospective adoptive parents shall not establish any professional/client relationship between the prospective adoptive parents and the counselor or attorney providing services under subdivisions (1) and (2);

(4) The department shall, by rule, establish the form of the certification required by this section, including the counseling criteria which must be met with the surrendering parent as part of the certification;

(m) Before the surrender is received and before an order of guardianship is entered based upon a parental consent, the person(s) to whom the child is to be surrendered or the



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persons to whom a parental consent is given, other than the department or a licensed child-placing agency, shall present with the surrender executed in Tennessee or on a Tennessee form at the time of the execution of the surrender all of the following documents:

(1) A currently effective or updated home study or preliminary home study conducted by a licensed child-placing agency, a licensed clinical social worker, or the department;

(2) Certification of the completion of any counseling requested under subsection (l);

(3) An affidavit of the person(s) stating whether they have physical custody of the child at the time of the surrender or the affidavits required by subdivision (d)(6);

(4) If the child has been brought to Tennessee from another state or territory, a copy of the Interstate Compact on the Placement of Children (ICPC) Form 100A or other substitute form required for ICPC compliance showing approval of the department for the child brought into Tennessee for foster care or adoption or a sworn statement stating why such form is not required pursuant to the ICPC; and

(5) A sworn statement that if the Indian Child Welfare Act, 25 U.S.C. §1901 et seq., applies because of the child's Native American heritage, there has been compliance with the Act.

(n)(1) A licensed child-placing agency receiving the surrender shall complete the provisions of subdivisions (m)(3), (m)(4) and (m)(5).

(2) The department, when receiving the surrender, shall complete the provisions of subdivisions (m)(3) and (m)(5).

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(o) No surrender shall be accepted by the Tennessee court or on a Tennessee form by those persons authorized to accept a surrender under subsections (h), (i), or (j), nor shall an order of guardianship be entered by the court under subsection (r) based upon a surrender or a parental consent until there has been compliance with the provisions of subsections of (l), (m), and (n).

(p)(1)(A) The person(s) executing the surrender and the person(s), the local representative of the department or the local representative of the licensed child-placing agency to whom the child is surrendered, shall receive certified copies of the original surrender from the clerk of the court immediately upon the conclusion of the surrender proceeding.

(B) Costs of all certified copies provided under this subdivision shall be taxed only to the person(s) receiving the surrender, the department, or the licensed child-placing agency.

(2)(A) The original of the surrender executed before the court shall be entered on a special docket for surrenders and shall be styled: "In Re: (Child's Name)", and shall be permanently filed by the court in a separate file designated for that purpose maintained by the judge, or the judge's court officer, who accepted the surrender and shall be confidential and shall not be inspected by anyone without the written approval of the court where the file is maintained or by a court of competent jurisdiction with domestic relations jurisdiction if the file is maintained elsewhere. Within five (5) days a certified copy of the surrender shall be sent by the clerk to the adoptions unit in the state office of the department in Nashville.

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(B)(i) The original of the surrender executed before the persons authorized under subsections (h) and (i), or in out-of-state correctional facilities, under subsection (j) shall be maintained in a separate file designated for that purpose which shall be confidential and shall not be inspected by anyone else without the written approval of a court with domestic relations jurisdiction where the file is maintained.

(ii) For surrenders executed under subsection (j) in federal and state correctional facilities in Tennessee the original shall be filed in a secure file in the office of the warden, which shall not be open to inspection by any other person, and after ten (10) days from the date of the surrender, the original shall be sent to the adoptions unit in the state office of the department in Nashville and a copy shall be maintained by the warden.

(4)(A) The clerk of the court, or the department as the case may be, upon request, shall send certified copies of the original surrender to:

(i) The court where the adoption petition or where the petition to terminate parental rights is filed;

(ii) Any party who is petitioning for the adoption of a child or to any party who or which is petitioning to terminate parental rights;

(iii) The department's county office or a licensed child-placing agency or licensed clinical social worker which or who is performing any service related to an adoption or which has intervened in an adoption proceeding.

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(B) Costs of providing certified copies under this subdivision may be taxed or charged to the person, the department, or the licensed child-placing agency which requests the certified copies, except where the department, the licensed child-placing agency, or licensed clinical social worker is responding to an order of reference from a court or where the department, licensed child-placing agency, or licensed clinical social worker is conducting any investigation related to the adoption or to the child's welfare.

(q)(1) The party to whom the child is surrendered pursuant to subsections (h), (i), or (j) shall file a certified copy of the surrender of a child with the chancery, circuit, or juvenile court in Tennessee where the child or the prospective adoptive parents reside, or with the court in which an adoption petition is filed in Tennessee, within fifteen (15) days of the date the surrender is actually received, or within fifteen (15) days of the date the child or the person(s) to whom the child has been surrendered becomes a resident of the state of Tennessee, whichever is earlier.

(2) The surrender executed pursuant to subdivision (1) shall be recorded by the court and shall be processed by the clerk as required by subdivision (p)(2)(A).

(3) In cases under subdivision (1), where the child is in the legal custody of the department or a licensed child-placing agency, the surrender also may be filed in the chancery, circuit, or juvenile court or other court which had placed custody of the child with the department or the licensed child-placing agency.

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(4) In cases under subdivision (1), and in accordance with subsection (r), the court shall enter such other orders for the guardianship and supervision of the child as may be necessary or required pursuant to this section or § 36-1-118.

(r)(1)(A) A surrender, a confirmed parental consent, or a waiver of interest executed in accordance with this part shall have the effect of terminating all rights as the parent or guardian to the child who is surrendered, for whom parental consent to adopt is given, or for whom a waiver of interest is executed. It shall terminate the responsibilities of the surrendering parent or guardian, the consenting parent, or the person executing a waiver of interest under this section for future child support or other future financial responsibilities even if the child is not ultimately adopted; provided, however, that this shall not be construed to eliminate the responsibility of such parent or guardian for past child support arrearages or other financial obligations incurred for the care of such child prior to the execution of the surrender, parental consent or waiver of interest; and, provided, further that the court may, with the consent of the parent or guardian, restore such rights and responsibilities pursuant to § 36-1-118(d).

(B) Notwithstanding the provisions of subdivision (1)(A), a child who is surrendered, for whom a parental consent has been executed, or for whom a waiver of interest has been executed shall be entitled to inherit from a parent who has surrendered the child or executed a parental consent or waiver of interest until the final order of adoption is entered.

(2) Unless prior court orders or statutory authorization establish guardianship or custody in the person or entity to whom the surrender or parental consent is executed, the surrender, or

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parental consent alone does not vest the person(s) or entities who or which receive it with the legal authority to have custody or guardianship or to make decisions for the child without the entry of an order of guardianship or partial guardianship as provided in subdivision (6)(A) or as provided in § 36-1-116(f); provided, however, the court accepting the surrender or the parental consent shall not enter any orders relative to the guardianship or custody of a child for whom guardianship or custody is already established under prior court orders or statutory authorization, except upon motion under subdivision (4)(D) by the person(s) or entities to whom the surrender or parental consent is executed.

(3)(A) Except as provided in subdivisions (r)(2) and (4), a validly executed surrender shall confer jurisdiction of all matters pertaining to the child upon the court where the surrender is executed or filed until the filing of the adoption petition at which time jurisdiction of all matters pertaining to the child shall transfer to the court where the adoption petition is filed; provided, however, that the jurisdiction of the juvenile court to adjudicate allegations concerning any delinquent, unruly, or truant acts of a child pursuant to title 37 shall not be suspended.

(B) A waiver of interest does not confer jurisdiction over the child in any court nor does it permit the entry of any order of custody or guardianship based solely upon such waiver, but shall only permit a court to find that that person's parental rights, if any, are terminated.

(4)(A) When, at the time the surrender or parental consent is executed, a prior court order is in effect which asserts that court's jurisdiction over the child who is the subject of the surrender or parental consent, the prior court order shall remain effective until, and only as

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permitted by this section, an alternate disposition for the child is made by the court where the surrender is executed or filed or until, and only as permitted by this section, an alternate disposition is made for the child on the basis of a termination of parental rights proceeding, or, as permitted by § 36-1-116, until an alternate disposition for the child is made by the court where the adoption petition is filed.

(B) If the prior court order under subdivision (4)(A) gives the right to legal and physical custody of the child to a person, the department, a licensed child-placing agency, or other child-caring agency, a surrender or parental consent by the parent or guardian to any other person(s) or entities shall be invalid as provided under subdivision (d)(5), and any purported surrender or parental consent to such other person(s) or entities shall not be recognized to grant standing to file a motion pursuant to subdivision (6) and § 36-1-116(f)(3) to such other person(s) or entities who or which received the surrender or parental consent, and no order of guardianship or partial guardianship based upon that surrender or parental consent and motion shall be effective to deprive the existing legal or physical custodians under the court's prior order of legal or physical custody of that child. Any orders to the contrary shall be void and of no effect whatsoever.

(C) If the court which has entered the prior custody order under subdivision (4)(A) has subject matter jurisdiction to terminate parental or guardian rights at the time a surrender of the child who is the subject of that order is validly executed in another court pursuant to subdivision (4)(D) or at the time a petition to terminate parental rights is filed pursuant to subdivision (4)(E), it shall continue to have jurisdiction to complete any pending petitions to terminate parental or

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guardian rights which are filed prior to the execution of the surrender or prior to the filing of the petition to terminate parental rights in the other court pursuant to subdivision (4)(E). The court shall not have jurisdiction to complete any pending petitions to terminate parental rights subsequent to filing of a petition for adoption. The court may enter orders of guardianship pursuant to the termination of parental rights proceedings unless prior thereto an order of guardianship is entered by another court pursuant to subdivisions (4)(D) and (4)(E). Any orders of guardianship entered pursuant to subdivisions (4)(D) and (4)(E) or pursuant to § 36-1-116 shall have priority over the orders of guardianship entered pursuant to this paragraph; provided, however, orders terminating parental rights entered pursuant to this paragraph shall be effective to terminate parental rights.

(D) If the person(s) or entities in subdivision (4)(B) to whom the surrender is made have legal and physical custody of the child or the right to legal and physical custody of the child pursuant to a prior court order at the time the surrender is executed to them, any court with jurisdiction to receive a surrender may receive a surrender which is executed to them and shall have jurisdiction, upon their motion, to enter an order giving guardianship or partial guardianship to those person(s) or entities, and, notwithstanding the provisions of subdivision (4)(A), such order may make an alternate disposition for the child.

(E) Notwithstanding the provisions of subdivision (4)(A), a person, the department, or a licensed child-placing agency which had custody of the child pursuant to a court's prior order, may file in any court with jurisdiction to terminate parental or guardian rights, and in which



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venue exists, any necessary petitions to terminate the remaining parental or guardian rights of any person(s) to the child, and if they have any subsequent order(s) of guardianship or partial guardianship based upon an executed surrender or a termination of parental rights from the other court of competent jurisdiction, they may place the child for adoption in accordance with those subsequent orders.

(5) If multiple surrenders or parental consents are received with respect to the same child in different courts, subject to the restrictions of subdivisions(r)(2) and (4), the court which first receives a surrender or parental consent or in which the surrender is first filed pursuant to subsection (q), and which enters an order of guardianship or partial guardianship, shall have jurisdiction of the child and shall issue any necessary orders of reference required by this section. Any other court which receives a surrender or parental consent or in which a surrender or parental consent is filed pursuant to subsection (q) subsequent to the surrender shall, upon notification by the first court, send the original of the surrender or filed pleading to the first court and shall retain a certified copy of the original in a closed file which shall not be accessed by any person without the written order of the court.

(6)(A) Subject to the restrictions of subdivisions (r)(2) and (4), a validly executed surrender under this section or a parental consent shall give to the person to whom the child is surrendered or to whom a parental consent is given standing to file a written motion for an express order of guardianship or partial guardianship, as defined in § 36-1-102(22), from the court where the child was surrendered or where, under subsection (q), the surrender was filed,

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or in the court which, pursuant to subdivision (r)(4)(A), has granted legal custody of the child to such person, or in the court in which the adoption petition is filed. A validly executed surrender shall entitle the department or the licensed child-placing agency which received the surrender to have the court enter an order of guardianship pursuant to paragraph (C).

(B) The motion, which may be filed by any person or by that person's attorney, shall contain an affidavit that the party seeking the order of guardianship or partial guardianship has physical custody of the child, or if filed at the time of the execution of the surrender or the filing of the adoption petition containing a parental consent, it shall contain the affidavits otherwise required by subdivision (d)(6).

(C) If the person, the department, or the licensed child-placing agency to whom the child is surrendered or to whom parental consent is given has physical custody or has otherwise complied with the requirements of subdivision (d)(6), and if there has been full compliance with the other provisions of this section, the court may, contemporaneously with the surrender or the filing of an adoption petition, immediately upon written motion by the person or their attorney, and the court shall, if the surrender is to a licensed child-placing agency or the department, enter an order giving the person, the licensed child-placing agency, or the department, guardianship or partial guardianship of the child.

(D) A copy of the surrender, the motion and any resulting order shall be sent by the clerk to the state office adoptions unit of the department in Nashville which shall record the surrender,

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the motion, and the order and their dates of filing and entry for purposes of tracking the child's placement status and the status of the adoption process involving the child.

(7) If an order of guardianship is entered, the appointed guardians shall have authority to act as guardian ad litem or next friend of the child in any suit by the child against third parties while the child is in the care and custody of the petitioners. The court may appoint a special guardian for the child for such purpose upon motion by the department for a child in its guardianship.

(8) If the court grants guardianship or custody of the child upon the filing of the surrender or upon the filing of a parental consent and the child is possessed of any real or personal property to be administered, the court shall appoint a guardian of the property of the child if no guardian of the property exists, and such guardian may be the same person(s) who are guardians of the person of the child except if the child is in the guardianship of the department in which case another person or entity shall be appointed.

(s) The Uniform Child Custody Jurisdiction Act (UCCJA--§36-6-201 et seq.) shall govern jurisdiction for the disposition of the child and the proceedings under this subsection.

(t)(1) Upon receipt of the surrender or upon the filing a parental consent for an adoption by a person other than a related person, and if no home study had been completed or updated within six (6) months prior to the surrender or the filing of a parental consent, and filed with the court, the court shall, by an order of reference issued within five (5) days, direct that a home study be conducted and filed as provided in this part.

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(2) The order of reference shall be directed to a licensed child-placing agency or a licensed clinical social worker unless the prospective adoptive parents are indigent under current federal poverty guidelines, in which case the order shall be directed to the department.

(3) The home study shall be filed by the court within sixty (60) days of the date of the order of reference.

(4) The court shall order a licensed child-placing agency, a licensed clinical social worker, or the department if the parents are indigent under federal poverty guidelines to provide supervision for the child who is in the home of prospective adoptive parents pursuant to a surrender or a parental consent under this section and to make any necessary reports which the court should have concerning the welfare of the child pending entry of the final order in the case; provided, however this subdivision shall not apply when the surrender is made to related persons.

(5) If the adoption petition is filed before the home study is completed and the adoption petition is filed in a court other than the one where the surrender was executed, the court where the surrender is executed shall, upon request of the court where the adoption petition is filed or upon motion of the prospective adoptive parents, send any home study it receives to the adoption court.

(6) Unless they are indigent under federal poverty guidelines, the prospective adoptive parents shall be assessed by the court the costs of the study and the supervision of the

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placement by the agency and the costs shall be paid by them to the licensed child-placing agency or licensed clinical social worker which performed the home study or supervision.

(u)(1) Failure to fully comply with the provisions of this section or failure to file the surrender executed pursuant to subsections (h), (i), or (j) within the fifteen (15) day period required by subsection (q), or failure to obtain an order of guardianship in accordance with this section within thirty (30) days of the date the surrender is executed or filed or within thirty (30) days of the date parental consent is filed, shall be grounds for removal of the child from the physical care and control of the person, the department, or licensed child-placing agency receiving the surrender, provided, however, this shall not apply when the persons, the department or the licensed child-placing agency have legal custody or partial guardianship under an order of a court entered prior to the execution of the surrender or parental consent or pursuant to any statutory authority giving custody to the department or licensed child-placing agency.

(2) A sworn complaint concerning the grounds alleged in subdivision (1) and concerning the best interests of a child for whom a surrender is sought or on whom a surrender or parental consent was executed or guardianship order entered, or which complaint otherwise seeks to present proof concerning the best interests of the child, may be filed by any person, the department, a licensed child-placing agency, or a licensed clinical social worker.

(3) The complaint may be filed in the court where the surrender was executed or filed or where the adoption petition containing a parental consent was filed. If the surrender was not

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executed or filed in Tennessee or if the surrender was not executed before a court or if the surrender was not filed at all, then the complaint may be filed in the circuit, chancery, or juvenile court in the county where the child resides.

(v)(1)(A) Upon its own motion or upon the complaint filed pursuant to subsection (u) and subject to the restrictions concerning custody of the child who is not in the custody of the prospective adoptive parents as stated in subdivisions (r)(2) and (4) and § 36-1-116(f)(1), the court receiving the surrender or entering the order of guardianship or partial guardianship and the adoption court to which jurisdiction may be transferred may make any suitable provisions for the care of the child and, notwithstanding the restrictions of subdivisions (r)(2) and (4) and § 36-1-116(f)(1), the court shall have jurisdiction to enter any necessary orders, including any emergency ex parte orders for the child's emergency protection, care, and supervision based upon probable cause that the child's health and safety is immediately endangered; provided, however, that such emergency orders shall only remain effective for thirty (30) days when the restrictions of subdivisions (r)(2) and (4) and § 36-1-116(f)(1) apply.

(B) If another court has jurisdiction under a prior order because of such restrictions, upon completion of all proceedings to protect the child, the court shall then return all jurisdiction over the child to the court having jurisdiction under the prior order; provided, that the juvenile court shall maintain jurisdiction pursuant to title 37 to adjudicate allegations of delinquency, unruliness, or truancy involving the child.

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(C) If the child has no legal custodian with authority to provide temporary care for the child, then, subject to the restrictions of subdivisions (r)(2) and (4) and subdivision (1), the court shall give temporary legal custody pursuant to §37-1-140 to the department or a licensed child-placing agency until full compliance has been effected and until a guardianship or partial guardianship order can be entered or until some other disposition is made for the child by the court. The court may permit the department or a licensed child-placing agency, in their discretion, to place the child with any suitable person, including the prospective adoptive parents, under the department's or the licensed child-placing agency's supervision.

(D) If an emergency ex parte order removes the child from the custody of the prospective adoptive parents or the department or licensed child-placing agency, a preliminary hearing shall be held within five (5) days, excluding Saturdays, Sundays, and legal holidays, to determine if probable cause exists for the continuance of such order.

(2) The prospective adoptive parents, or entities from which the child was removed shall be necessary parties at the preliminary hearing and the final hearing and the court may order the department or a licensed child-placing agency or licensed clinical social worker to provide any necessary information or reports concerning the welfare of the child as it may require.

(3) A final hearing shall be held within thirty(30) days of the date of the preliminary hearing, except for good cause entered upon the record.

(4) Upon the final hearing, and based upon clear and convincing evidence that the action is in the best interests of the child, the court shall have jurisdiction to enter an order

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removing the child from the prospective adoptive parents or other custodian or guardian of the child and may award temporary legal custody giving any person, the department or licensed child-placing agency, or a child-caring agency, the care and custody of the child as provided under § 37-1-140 or may enter a guardianship or partial guardianship order with the rights provided under this part, all subject to the rights of any remaining parent or guardian.

(w)(1) Notwithstanding any other provision of law to the contrary, a waiver of interest, when signed under oath by the alleged biological father of a child to be placed for adoption, shall serve to irrevocably terminate the alleged father's parental rights and the responsibility for any future financial obligation to the child or the child's mother arising after the date of the execution of the waiver, and the alleged father shall not be required to be made a party to any adoption proceedings or other custody proceedings with respect to the child and shall not be entitled to receive notice thereof.

(2) The waiver of interest shall not be valid for use by a legal father as defined under § 36-1-102(25) or for any man listed as the father of a child on the child's birth certificate.

(3) The waiver of interest may be executed at any time after the biological mother executes a sworn statement identifying such person as the father of her child to be born, or at anytime after the birth of the child.

(4) For purposes of termination of the alleged father's rights, a waiver of interest shall be legally sufficient if it contains a statement comparable to the following statement:

**WAIVER OF INTEREST**



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STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

Pursuant to Tennessee Code Annotated, § 36-1-111(w), and first being duly sworn according to law, Affiant would state the following:

My name is \_\_\_\_\_. I understand that I have been named by \_\_\_\_\_, the mother of a child [to be born], or a [child which was born in \_\_\_\_\_ (City) \_\_\_\_\_ (State) on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_ (or 20\_\_)], as the father or possible father of that child. I further understand that the mother has placed or wishes to place this child for adoption or that the child is the subject of legal proceedings leading to the child's adoption.

I am not necessarily admitting or saying that I am the father of this child, but if I am, I do not wish to provide care for this child, and I feel it would be in the child's best interest for this adoption to occur. I hereby formally waive any right to notice of the legal proceedings to adopt this child or otherwise make this child available for adoption. I hereby formally waive any further parental rights to the child and execute this document to terminate my rights, if I have any rights, to this child.

If the child is not yet born:

[I have received and reviewed a copy of the sworn statement of the child's mother in which she identifies me as the father of the child.]

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I consent to adoption of this child by any persons chosen by the child's mother or any public or private agency.

I understand that by execution of this waiver, this child may be adopted by other persons and that I will have no rights, if I have any, to act as parent, to visit with, or otherwise be involved in this child's life.

I further understand that I may not revoke this waiver at anytime after I sign it.

**FURTHER, AFFIANT SAITH NOT.**

DATED: THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_(20\_\_).

\_\_\_\_\_  
Alleged Father

\_\_\_\_\_  
Address

Personally appeared before me the above-named \_\_\_\_\_ who is known to me and who acknowledged that he executed the above Waiver of Interest as his own free and voluntary act.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(x)(1) If a child is surrendered to a person other than a licensed child-placing agency or the department, and, after the expiration of the ten (10) day period for revocation, the person or persons to whom the child was surrendered decide that they no longer wish to adopt the child,

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and if no order of guardianship has been entered by a court which gives those persons who had received the surrender the guardianship of the child, they may surrender the child to a licensed child-placing agency or the department without notice to the parent or guardians who originally had executed the surrender to them.

(2) In this event, the licensed child-placing agency or the department shall have the same rights as set forth above just as if the child had been originally surrendered to them; provided, however, that if the court has entered a guardianship order as set forth above, the surrender cannot be utilized in this manner, and a motion must be made to the court to modify the existing guardianship order.

(3) Certified copies of all such surrenders and orders modifying any order of guardianship shall be sent by the clerk to the state office adoptions unit of the department in Nashville.

**T.C.A. § 36-1-112. Revocation of surrender and parental consent-Form.** (a)(1)(A) A person who executed a surrender may revoke the surrender at any time within ten (10) calendar days of the date of the surrender.

(B) The surrender shall be revoked by appearing before the judge who accepted the surrender or that judge's successor or substitute, or another judge of a court with jurisdiction to accept a surrender in the absence of the judge who accepted the surrender or that judge's substitute or successor, or by appearing before the person, or that person's successor, pursuant

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to § 36-1-111(h), (i) or (j) before whom the surrender was executed and by executing the revocation of surrender form.

(C) If the tenth (10th) day falls on a Saturday, Sunday, or legal holiday, the last day for the revocation shall be the next day which is not a Saturday, Sunday, or legal holiday. The ten(10) day period for revocation of the surrender shall not limit the court's authority to order the revocation of the surrender pursuant to § 36-1-118.

(D) The revocation of the surrender shall be executed under oath by the parent or guardian who executed the surrender of the child, and the judge or other person who accepted the surrender or his or her substitute as indicated in (a)(1)(B) shall affix his or her signature and shall date the revocation form.

(E) In the event the person under § 36-1-111(h),(i) or (j) is unavailable or has no authorized successor, the person may apply to a court which is qualified to receive a surrender in Tennessee or a court with domestic relations jurisdiction in another state or country to execute the revocation before a judge of that court as provided herein.

(F)(i) No surrender may be revoked by the person surrendering the child or set aside by a court after the expiration of the ten (10) day period except as the surrender may be invalidated by court order entered pursuant to a timely filed complaint filed pursuant to subsection (d) or as permitted by order of the court entered pursuant to § 36-1-118.

(ii) The execution of a revocation of a surrender within the ten (10) day period shall be grounds for the dismissal of any adoption petition filed during that period and, upon motion of

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the person who revoked the surrender, the court shall dismiss the adoption petition without prejudice.

(2)(A) A parental consent may be revoked at anytime prior to the entry of an order of confirmation of the parental consent by the court.

(B) The parent who executed the parental consent shall appear before the judge of the court in which the adoption petition is filed, or in his or her absence, his or her successor or substitute or if no successor or substitute, any judge or a court with jurisdiction to adjudicate adoption petitions, and shall execute a revocation of the parental consent form.

(b) The form for the revocation of a surrender or parental consent shall be prescribed by the department pursuant to rules promulgated by it pursuant to this part and a copy of the form shall be attached to the parent's copy of the surrender.

(c)(1) The court or person receiving the revocations shall maintain the originals in the office of the clerk or the office of the person receiving the surrender together with the original of the surrender or adoption petition containing the parental consent, if available, and shall personally give or shall send by certified mail, return receipt requested, certified copies of the revocations to the child's parents, the prospective adoptive parents, the local office of the department, or a licensed child-placing agency to whom the child had been surrendered.

(2)(A) When the revocation is received, the court or the person before whom the revocation was executed shall attach a certified copy of the revocation to a certified copy of the surrender or petition for adoption containing the parental consent, and shall within three (3)

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days mail the copies of both documents by certified mail, return receipt requested to the department's state office adoptions unit in Nashville.

(B) If the revocation must be executed before a court or person before whom the surrender was not executed or in which the adoption petition was not filed, the original of the revocation shall be sent within three (3) days to the court or person before whom the surrender was executed or in which the adoption petition was filed, and that court or person shall be responsible for sending the forms to the department and to the persons or agencies who are entitled to copies of the revocation.

(C) The department shall record the revocation with the copies of the surrender or adoption petition containing the parental consent and the order of guardianship for purposes of tracking the adoptive placement status of the child.

(d) After the revocation period has expired or after the court has entered an order confirming a parental consent, no surrender or waiver of interest or parental consent shall be set aside by a court except upon clear and convincing evidence of duress, fraud, intentional misrepresentation or for invalidity under § 36-1-111(d), and no surrender, waiver of interest, or parental consent may be set aside for any reason under this part unless the action based on these grounds is initiated within thirty (30) days of the execution of the surrender, waiver of interest or within thirty (30) days of the date of entry of the order of confirmation of the parental consent.

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(e)(1) A surrender or parental consent which is revoked shall have the effect of returning the child's legal status to that which existed before the surrender was executed, and the department, a licensed child-placing agency, or the person who or which had custody or guardianship of the child prior to the surrender pursuant to any parental status, prior court order or statutory authorization shall continue or resume custody or guardianship under that prior parental status, prior court order, or statutory authority, which had established the custodial or guardianship status of the child prior to the execution of the surrender or parental consent, unless a court of competent jurisdiction shall otherwise determine as specifically provided herein.

(2)(A) Unless they had received or maintained custody or guardianship of the child pursuant to a court order entered or pursuant to statutory authority prior to the execution of the surrender or parental consent, the department, the licensed child-placing agency, or the person(s) to whom the child was surrendered and who have physical custody of the child, shall, within five (5) days of the receipt by them of the revocation, return the child to the child's parents or guardian who executed and revoked the surrender or parental consent; provided, however, that a sworn complaint may be filed in the court where the revocation was executed, or in the event that the surrender was executed before a person or court pursuant to §36-1-111(h),(i), or (j), in the chancery, circuit, or juvenile court where the child resides in Tennessee, to show cause why the child would likely suffer immediate harm to his or her health and safety if returned to the child's parent(s) or guardian who had executed the surrender.

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(B) If a complaint is filed pursuant to subdivision (2)(A), the child shall remain in the physical and/or legal custody or guardianship of the persons or agencies to whom the child was surrendered or with respect to whom the parental consent was executed until the court makes any further orders pursuant to this section and those persons or agencies shall have authority to provide any necessary care and supervision of the child, subject to further orders of the court.

(C)(i) The complaint filed under subdivision (2) shall name the parent(s) or guardian who executed and revoked the surrender or parental consent as defendant(s). Except for cause shown in an order entered on the record, the court shall hold a preliminary hearing within three (3) days of the filing of the petition to determine if there is probable cause to believe that the child will be subject to immediate harm to his or her health or safety if the child is returned to the child's parent(s) or guardian.

(ii) If probable cause is not established in the preliminary hearing, the child shall be immediately returned to the child's parent(s) or guardian who executed the surrender which has been revoked.

(iii) If probable cause is established, the court shall continue the child in the custody of the persons or the agency to whom the child was surrendered or with respect to whom a parental consent was executed, subject to further orders of the court, pending the final hearing.

(iv) The court may make any necessary orders pending the final hearing for the protection of the child.



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(D) The case shall be set for a final hearing on the merits within thirty (30) days of the preliminary hearing except for cause shown in a written order of the court entered on the record.

(E) Unless clear and convincing evidence at the final hearing shows that the child's safety and health would be in immediate danger if the child is returned or remains in the custody of the parent or guardian who executed the surrender or filed the parental consent, the complaint shall be dismissed and if the child was not returned to the parent at the preliminary hearing, the child shall be immediately returned to the child's parent or guardian who had executed the surrender or filed the parental consent.

(3)(A) If no complaint is filed pursuant to subdivision (2), the court where the surrender or parental consent was revoked shall enter any orders which are necessary to effect the return of the child to the parent(s) or guardian who had custody of the child prior to the execution of the surrender or prior to filing the parental consent, unless another person, the department, or a licensed child-placing agency had custody or guardianship of the child under a prior order entered before the execution of the surrender or filing of the parental consent, or which had custody or guardianship under statutory authorization prior to the execution of the surrender or parental consent which was revoked by that parent.

(B) The court in which a surrender, revocation or parental consent is given or filed, or adoption court may not modify any prior custody or guardianship order which had given custody or guardianship of the child to the department, a licensed child-placing agency, or another person under a prior order or pursuant to any statutory authorization prior to the surrender or the

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filing of the parental consent, and if such order or statutory authority exist, the court's jurisdiction over the child shall terminate after the execution of the revocation of the surrender or parental consent, and the prior parental status, prior court order or prior statutory authority shall continue in effect; provided, however, that if for any reason, the agencies or persons who had prior custody or guardianship of the child are unable or unwilling to resume custody of the child, the court receiving the revocation shall be authorized to make a custody determination and award temporary custody of the child to any suitable person, the department, or a licensed child-placing agency with custodial authority pursuant to § 36-1-140, or it may make an order of guardianship or partial guardianship pursuant to § 36-1-102(22), with the right to adopt or consent to the child's adoption.

(4) In the event that the surrender was executed before a person or court under § 36-1-111(h),(i), or (j), the chancery, circuit, or juvenile court where the surrender was filed pursuant to § 36-1-111(q) or in the county where the child resides in Tennessee if the surrender has not been filed, shall have jurisdiction to enter orders in compliance with this subsection to effect the child's return to his or her parent(s) or guardian or to provide for the child's custody or guardianship as permitted herein.

(f) If the child is not returned to the child's parent(s) or guardian pursuant to subsection (e)(2)(E), and unless the department, a licensed child-placing agency, or another person to whom the child was surrendered or to whom a parental consent was executed had custody or guardianship of the child pursuant to a court order entered prior to the filing of the surrender or

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the parental consent or pursuant to statutory authorization prior to the execution of the surrender or parental consent, the court where the revocation was executed shall have jurisdiction following a revocation of the surrender or parental consent to award temporary custody to any appropriate person, the department, or any other licensed child welfare agency, with the authority as legal custodian pursuant to § 37-1-140 or the court may award guardianship or partial guardianship pursuant to §36-1-102(22) with the right to adopt or consent to the child's adoption.

(g) The department or a licensed child-placing agency or licensed clinical social worker shall have the right to intervene in any complaint filed pursuant to subsection (e)(2)(A) for the purpose of introducing proof as to the child's health and safety.

**T.C.A. § 36-1-113.--Termination of parental rights.** (a) The chancery and circuit courts shall have concurrent jurisdiction with the juvenile court to terminate parental or guardianship rights to a child in a separate proceeding, or as a part of the adoption proceeding by utilizing all grounds for termination of parental or guardianship rights permitted in this part or in title 37, chapter 1, part 1 and title 37, chapter 2, part 4.

(b) The prospective adoptive parent(s) of the child, any licensed child-placing agency having custody of the child, the child's guardian ad litem, or the department shall have standing to file a petition pursuant to this part or pursuant to title 37 to terminate parental or guardianship rights of a person alleged to be a parent or guardian of such child. The prospective adoptive

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parents shall have standing to request termination of parental or guardianship rights in the adoption petition filed by them pursuant to this part.

(c) Termination of parental or guardianship rights must be based upon:

(1) A finding by the court by clear and convincing evidence, that the grounds for termination or parental or guardianship rights have been established, and

(2) That termination of the parent's or guardian's rights is in the best interests of the child.

(d)(1) The petition, or allegations in the adoption petition, to terminate parental rights may be made upon information and belief and shall be verified.

(2) The petition, or allegations in the adoption petition, shall state:

(A) The child's name;

(B) The child's age or date of birth;

(C) The child's current residence address or that the child is in the custody of the department or a licensed child-placing agency; and

(D) Any other facts which allege the basis for termination of parental rights and which bring the child and parties within the jurisdiction of the court.

(3)(A) The petition, or allegations in the adoption petition, shall contain a verified statement that:

(i) The putative father registry maintained by the department has been consulted within three (3) working days of the filing of the petition and shall state whether there exists any claim

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on the registry to the paternity of the child who is the subject of the termination or adoption petition;

(ii) Indicates if there exists any other claim or potential claim to the paternity of the child; and

(iii) Describes whether any other parental or guardianship rights have been terminated by surrender, parental consent, or otherwise, and whether any other such rights must be terminated before the child can be made available for adoption.

(B) Any person(s) entitled to notice pursuant to the provisions of §36-1-117 shall be named as defendants in the petition to terminate parental rights or in the adoption petition and shall be served with a copy of the petition as provided by law.

(C) The petition to terminate, or the adoption petition which seeks to terminate parental rights, shall state that:

(i) The petition or request for termination in the adoption petition shall have the effect of forever severing all of the rights, responsibilities, and obligations of the parent(s) or guardian(s) to the child who is the subject of the order, and of the child to those parent(s) or guardian(s);

(ii) The child will be placed in the guardianship of other person(s) or public or private agencies who, or which, as the case may be, shall have the right to adopt the child, or to place the child for adoption and to consent to the child's adoption; and

(iii) The parent or guardian shall have no further right to notice of proceedings for the adoption of the child by other persons and that the parent or guardian shall have no right to

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object to the child's adoption or thereafter, at anytime, to have any relationship, legal or otherwise, with the child.

(4) The petition, if filed separately from the adoption petition, may be filed:

(A) In the court of the county where the child currently resides in the physical custody of the petitioners;

(B) In the court which has jurisdiction to adjudicate a termination of parental rights and which had awarded the custody of the child to the petitioner(s) under a prior order by which the petitioner(s) currently hold legal custody or complete or partial guardianship; or,

(C) In any court in the county where the child currently resides or which has jurisdiction to adjudicate a termination of parental rights if the petitioner(s) currently have legal custody or complete or partial guardianship of the child under a prior court order or statutory authorization.

(e) Service of process of the petition shall be made as provided in § 36-1-117.

(f) Before terminating the rights of any parent or guardian who is incarcerated or who was incarcerated at the time of an action or proceeding is initiated, it must be affirmatively shown to the court that such incarcerated parent or guardian received actual notice of the following:

(1) The time and place of the hearing to terminate parental rights;

(2) That the hearing will determine whether the rights of the incarcerated parent or guardian should be terminated;

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(3) That the incarcerated parent or guardian has the right to appear at such hearing and contest the allegation that the rights of the incarcerated parent or guardian should be terminated;

(4) That if the incarcerated parent or guardian wishes to appear at the hearing and contest the allegation, such incarcerated parent or guardian will be provided with transportation to such hearing and, if indigent, will be provided with a court-appointed attorney to assist him or her in contesting the allegation;

(5) If, by means of a signed waiver, the court determines that the incarcerated parent or guardian has voluntarily waived the rights granted by this subsection or if such parent or guardian takes no action after receiving notice of such rights, the court may proceed with such action in such parent's or guardian's absence.

(g) Termination of parental or guardianship rights may be based upon any of the following grounds:

(1) Abandonment by the parent or guardian as defined pursuant to § 36-1-102 has occurred;

(2) There has been substantial noncompliance by the parent or guardian with the statement of responsibilities in a foster care plan or a plan of care pursuant to the provisions of title 37, chapter 2, part 4;

(3)(A) The child has been removed from the home of the parent or guardian by order of a court for a period of six (6) months and:

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(i) The conditions which led to the child's removal or other conditions which in all reasonable probability would cause the child to be subjected to further abuse or neglect and which, therefore, prevent the child's return to the care of the parent(s) or guardian(s), still persist;

(ii) There is little likelihood that these conditions will be remedied at an early date so that the child can be returned to the parent(s) or guardian(s) in the near future; and,

(iii) The continuation of the parent or guardian and child relationship greatly diminishes the child's chances of early integration into a stable and permanent home.

(4) The parent or guardian has been found to have committed severe child abuse as defined in § 37-1-102 under any prior order of a court or is found by the court hearing the petition to terminate parental rights or the petition for adoption to have committed severe child abuse against the child who is the subject of the petition or against any sibling or half-sibling of such child, or any other child residing temporarily or permanently in the home of such parent or guardian;

(5) The parent or guardian has been sentenced to more than two (2) years imprisonment for conduct against the child who is the subject of the petition, or for conduct against any sibling or half-sibling of the child or any other child residing temporarily or permanently in the home of such parent or guardian, which has been found under any prior order of a court or which is found by the court hearing the petition to be severe child abuse as defined by § 37-1-102(19). Unless otherwise stated, for purposes of this subdivision, the term "sentenced" shall not be



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construed to mean that the parent or guardian must have actually served more than two (2) years in confinement, but shall only be construed to mean that the court had imposed a sentence of two (2) or more years upon the parent or guardian;

(6) The parent has been confined in a correctional or detention facility of any type, by order of the court as a result of a criminal act, under a sentence of ten (10) or more years, and the child is under eight (8) years of age at the time the sentence is entered by the court.

(7)(A) The chancery and circuit courts shall have jurisdiction in an adoption proceeding, and the chancery, circuit, and juvenile courts shall have jurisdiction in a separate, independent proceeding conducted prior to an adoption proceeding to determine if the parent or guardian is mentally incompetent to provide for the further care and supervision of the child, and to terminate that parent's or guardian's rights to the child.

(B) The court may terminate the parental or guardianship rights of that person if it determines on the basis of clear and convincing evidence that:

(i) The parent or guardian of the child is incompetent to adequately provide for the further care and supervision of the child because the parent's or guardian's mental condition is presently so impaired and is so likely to remain so that it is unlikely that he or she will be able to assume or resume the care of and responsibility for the child in the near future, and

(ii) That termination of parental or guardian rights is in the best interest of the child.

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(C) In the circumstances described under subdivision (7)(A) and (B), no willfulness in the failure of the parent or guardian to establish his or her ability to care for the child need be shown to establish that the parental or guardianship rights should be terminated.

(8)(A) The parental rights of any person who is not the legal parent or guardian of a child or who is described in § 36-1-117(b) or (c), may also be terminated based upon any one or more of the following additional grounds:

(i) The person has failed, without good cause or excuse, to pay a reasonable share of prenatal, natal, and postnatal expenses involving the birth of the child in accordance with his financial means promptly upon the person's receipt of notice of the child's impending birth; or

(ii) The person has failed, without good cause or excuse, to make reasonable and consistent payments for the support of the child in accordance with the child support guidelines promulgated by the department pursuant to §36-5-101; or

(iii) The person has failed to seek reasonable visitation with the child, and if visitation has been granted, has failed to visit altogether, or has engaged in only token visitation as defined in §36-1-102(1)(D); or

(iv) The person has failed to manifest an ability and willingness to assume legal and physical custody of the child; or

(v) Placing custody of the child in the person's legal and physical custody would pose a risk of substantial harm to the physical or psychological welfare of the child; or

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(vi) The person has failed to file a petition to legitimate the child within thirty(30) days after notice of alleged paternity by the child's mother, or as required in § 36-2-209(j), or after a making a claim of paternity pursuant to § 36-1-117(c)(3).

(B)(i) For purposes of this subdivision, notice shall mean the mailing, postage pre-paid, or the sending by, express mail, courier, or other conveyance, to the person charged with notice at such person's address a statement that such person is believed to be the biological parent of a child. Notice shall be deemed received if the statement sent is not returned undelivered or evidence is not otherwise received by the sender that the statement was not delivered.

(ii) Notice shall also mean the oral statement to an alleged biological father from a biological mother that he is believed to be the biological father of her child.

(h) In determining whether termination of parental or guardianship rights is in the best interest of the child pursuant to this part, the court shall consider, but is not limited, to the following:

(1) Whether the parent or guardian has made such an adjustment of circumstance, conduct, or conditions as to make it in the child's best interest to be in the home of the parent or guardian;

(2) Whether the parent or guardian has failed to effect a lasting adjustment after reasonable efforts by available social services agencies for such duration of time that lasting adjustment does not reasonably appear possible;

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(3) Whether the parent or guardian has maintained regular visitation or other contact with the child;

(4) Whether a meaningful relationship has otherwise been established between the parent or guardian and the child;

(5) The effect a change of caretakers and physical environment is likely to have on the child's emotional, psychological and medical condition;

(6) Whether the parent or guardian, or other person residing with the parent or guardian has shown brutality, physical, sexual, emotional or psychological abuse, or neglect toward other children in the family or household;

(7) Whether the physical environment of the parent's or guardian's home is healthy and safe, whether there is criminal activity in the home, or whether there is such use of alcohol or controlled substances as may render the parent or guardian consistently unable to care for the child;

(8) Whether the parent's or guardian's mental and/or emotional status would be detrimental to the child or prevent the parent or guardian from effectively providing care and supervision for the child; or

(9) Whether the parent or guardian has paid child support consistent with the child support guidelines promulgated by the department pursuant to §36-5-101.

(i) In the hearing on the petition, the circuit, chancery, or juvenile court shall, in addition to the Tennessee Rules of Evidence, admit evidence as permitted under the Tennessee Rules

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of Juvenile Procedure, and shall recognize the exemptions to privileges as provided pursuant to §§ 37-1-411 and 37-1-614.

(j) The court shall enter an order which makes specific findings of fact and conclusions of law within thirty (30) days of the conclusion of the hearing.

(k)(1) An order terminating parental rights shall have the effect of severing forever all legal rights and obligations of the parent or guardian of the child against whom the order of termination is entered and of the child who is the subject of the petition to that parent or guardian. The parent or guardian shall have no further right to notice of proceedings for the adoption of that child by other persons and shall have no right to object to the child's adoption or thereafter to have any relationship, legal or otherwise, with the child. It shall terminate the responsibilities of that parent or guardian under this section for future child support or other future financial responsibilities even if the child is not ultimately adopted; provided, however, that the entry of an order terminating the parental rights shall not eliminate the responsibility of such parent or guardian for past child support arrearages or other financial obligations incurred for the care of such child prior to the entry of the order terminating parental rights.

(2) Notwithstanding the provisions of subdivision (k)(1), a child who is the subject of the order for termination shall be entitled to inherit from a parent whose rights are terminated until the final order of adoption is entered.

(l) Upon termination of parental or guardian rights, the court may award guardianship or partial guardianship of the child to a licensed child-placing agency or the department in any

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separate proceeding of the child with the right to place the child for adoption with the right to consent to the child's adoption, or to any prospective adoptive parent(s) with the right to adopt the child, as the case may be, subject to the remaining rights, if any, of other parent(s) or guardian(s) of the child.

(m) An order of guardianship or partial guardianship entered by the court pursuant to this section shall supersede prior orders of custody or guardianship of that court and of other courts, except those prior orders of guardianship or partial guardianship of other courts entered as the result of validly executed surrenders or revocations pursuant to §§ 36-1-111 or 36-1-112, or except as provided pursuant to § 36-1-111(r)(4)(D) and (E), or except an order of guardianship or partial guardianship of a court entered pursuant to § 36-1-116; provided, however, orders terminating parental rights entered by a court under this section prior to the filing of an adoption petition shall be effective to terminate parental rights for all purposes.

(n) If the court terminates parental or guardianship rights, under the provisions of this part or title 37 or a consent is given pursuant to 36-1-117(f) or (g) or if there have been surrenders of parental or guardianship rights of all other necessary parties, then no further surrender or consent of that parent or guardian shall be necessary to authorize an adoption; provided, however, the adoption court may review and confirm the validity of any denials of parentage made by persons under any statutory provisions from outside the state of Tennessee.

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(o) A copy of the order(s) obtained by the prospective adoptive parents terminating parental or guardianship rights under this section shall be filed with the petition for adoption.

(p) After the entry of the order terminating parental rights, no party to the proceeding, nor anyone claiming under such party, may later question the validity of the termination proceeding by reason of any defect or irregularity therein, jurisdictional or otherwise, but shall be fully bound thereby, except based upon a timely appeal of the termination order as may be allowed by law; and in no event, for any reason, shall a termination of parental rights be overturned by any court or collaterally attacked by any person or entity after one (1) year from the date of the entry of the final order of termination. This provision is intended as a statute of repose.

**T.C.A. § 36-1-114. Venue.** The adoption petition may be filed in the county:

- (1) Where the petitioners reside;
- (2) Where the child resides;
- (3) Where the child resided when he or she became subject to the care and control of a public or private child-caring or child-placing agency; or
- (4) In which is located any licensed child-placing agency or institution operated under the laws of this state having custody or guardianship of the child or to which the child has been surrendered as provided herein.

**T.C.A. § 36-1-115. Persons eligible to file adoption petition--Residence requirements--Preference for foster parents.** (a) Any person over eighteen (18) years of age

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may petition the chancery or circuit court to adopt a person and may request that the adopted person's name be changed.

(b) The petitioners must have physical custody or must demonstrate to the court that they have the right to receive custody of the child sought to be adopted as provided in § 36-1-111(d)(6) at the time the petition is filed, unless they are filing an intervening petition seeking to adopt the child.

(c) If the petitioner has a spouse living, competent to join in the petition, such spouse shall join in the petition; provided, that if the spouse of the petitioner is a legal or biological parent of the child to be adopted, such spouse shall sign the petition as co-petitioner and this shall be sufficient consent by the legal or biological parent for the petitioner's spouse to adopt the child of the legal or biological parent and no surrender shall be necessary by such co-petitioning legal or biological parent. Such action by the legal or biological parent shall not otherwise affect the legal relationship between that parent and the child.

(d) The petitioner or petitioners shall have lived, or maintained a regular place of abode, in this state or on federal territory within the boundaries of this state for six (6) consecutive months immediately preceding the filing of the adoption petition.

(e) If the petitioner is in military service stationed out of this state, but had lived, or maintained a regular place of abode, within this state for six (6) consecutive months immediately prior to entering military service, the residency requirement in subsection (d) shall not apply.



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(f) Where the petitioner is seeking to adopt a child that is related, the residency requirement in subsections (d) and (e) shall not apply if the petitioner is an actual resident of this state at the time the petition is filed.

(g)(1) When a child is placed in a foster home by the department or otherwise, and becomes available for adoption due to the termination or surrender of all parental or guardianship rights to the child, those foster parents shall be given first preference to adopt the child if the child has resided in the foster home for twelve (12) or more consecutive months immediately preceding the filing of an adoption petition.

(2) In becoming adoptive parents, the foster parents shall meet all requirements otherwise imposed on persons seeking to adopt children in the custody of the department, and shall be subject to all other provisions of this part.

**T.C.A. § 36-1-116. Pre-Petition Home Study--Information from Surrender Court--**

**Contents of Petition--Effect of filing--Order of Reference.**(a)(1)Prior to filing a petition for the adoption of a child, the prospective adoptive parents may contact a licensed child-placing agency, or a licensed clinical social worker, or if indigent under federal poverty guidelines, they may contact the department, and request a home study or a preliminary home study concerning the suitability of their home and themselves as adoptive parents.

(2) To be valid for use in response to the order of reference issued pursuant to subsection (e), the home study must have been completed or updated within six (6) months

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prior to the date of the order of reference. The preliminary home study must have been completed within thirty(30) days prior to the filing of the petition.

(b) The petition to adopt must state:

(1) The full name of the petitioners;

(2) The name used for the child in the proceeding. In the petition or other orders related to the custody of the child and the final order of adoption, and in all other documents related to the case, the name selected by the petitioner as the name for the child may be used as the true and legal name of the child, and the original name of the child shall not be necessary. Only in the report required by law on the investigation of the conditions and antecedents of the child sought to be adopted and on the form requesting the new certificate of birth by adoption shall the original name of the child given by the biological or prior legal parent or parents be necessary;

(3) The birth date, state, and county or country of birth of the child, if known;

(4) The information necessary to show that the court to which the petition is addressed has jurisdiction;

(5) That the petitioners have physical custody of the child or that they meet the requirements of § 36-1-111(d)(6), and from what person or agency such custody was or is to be obtained;

(6) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child;

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(7) The desire of the petitioners, if they have such, that the name of the child be changed, together with the new name desired;

(8) The value of the personal and real property owned by the child or in which the child may have some legal or equitable interest;

(9) That the petitioners are fit persons to have the care and custody of the child and that it is in the best interest of the child for this adoption to occur;

(10) That the petitioners are financially able to provide for the child;

(11) That there has been full compliance with the law in regard to surrender of the child to the petitioners, or termination of parental or guardianship rights, or consent to the adoption of the child by the agency with rights to place a child for adoption, or that the petitioner intends to effect compliance with the requirements for termination or parental or guardianship rights or parental consents as part of the adoption proceeding, and how such compliance will be effected. A copy of any orders obtained by the prospective adoptive parents terminating parental or guardianship rights and copies of any surrenders which were executed to the prospective adoptive parents shall be filed with the petition;

(12)(A) Whether the biological parent is giving his or her parental consent for the adoption of the child as defined pursuant to § 36-1-102(13) and as executed pursuant to § 36-1-117(g), or that the parent is signing the petition pursuant to § 36-1-117(f) and that the parent understands that the child will be adopted by the relatives or step-parent of the child and that, in

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the case of the adoption by relatives, the parent will have no legal rights to the custody, control, or to visitation with the child in the future;

(B) In the case of a parental consent pursuant to § 36-1-113 and § 36-1-117(g), the petition must state that the parent understands that the entry of an order confirming the parental consent, without revoking the parental consent prior to the entry of such order, will terminate his or her parental rights to the child forever and that the parent will have no legal rights to the custody, control, or to visitation with the child in the future.

(13)(A) That the petitioner has made inquiry to the putative father registry within three(3) working days prior to the filing of the petition to determine whether any person claims a paternity interest in the child who is the subject of the proceeding by having entered his claim with the registry, the result of such inquiry, and that, if the child is less than thirty (30) days old at the time the petition is filed, they have provided notice of the filing of the adoption petition to the registry; and

(B) Whether there are any other persons known to the petitioner(s) who are entitled to notice under §36-1-117 and the identity of such persons;

(14) Whether the child was brought into Tennessee for foster care or adoption, and, if so, that there has been full compliance with the Interstate Compact on the Placement of Children or, if compliance has not occurred, a statement alleging good cause for such noncompliance. Evidence of compliance in the form of the ICPC Form 100A or other form from

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the department, if appropriate, or a sworn statement stating why such form is not required shall be included or attached as an exhibit to the petition;

(15)(A) Whether the child was brought into Tennessee for foster care or adoption from a foreign country, and, if so, evidence shall be attached to the petition showing approval of the government or legal authority in the country from which the child was brought that the child's placement with the petitioners was appropriate and that the petitioners have legal authority under that country's law to have the custody of the child;

(B) The petition shall exhibit evidence from the United States Immigration and Naturalization Service, the United States Department of Justice or the United States Department of State that the child has proper authorization to enter the United States;

(C) If a child who was the subject of an adoption decree from the foreign country must be re-adopted under Tennessee law to effect a valid adoption due to any interpretation of the United States government, the petition shall so state and state that this is necessary for the child to be legally adopted in the United States, and the court shall have jurisdiction to enter an order of adoption for this purpose;

(16)(A) Whether the petitioners have paid, or promised to pay, any money, fees, contributions, or other remuneration or thing of value in connection with the birth, placement or the adoption of the child, and if so, to or from whom, the specific amount, and the specific purpose for which these were paid or promised;

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(B) The disclosure required by this subdivision shall specifically include whether any attorneys fees or medical expenses or counseling fees and the other expenses permitted under §§36-1-108 and 36-1-109 or any other fees, remuneration, or contribution, were paid or promised in connection with the child's birth, placement, or adoption and if so, to whom, the specific amount and the specific purpose for which they were paid or promised;

(C) The disclosure required by this subdivision shall also specifically include the amount of fees paid to any licensed child-placing agency or licensed clinical social worker in connection with the placement of the child.

(c) The petition must be signed by each petitioner personally and must be verified and must be filed with the clerk of the court who shall send a certified copy of the petition to the director of adoptions in the state office of the department in Nashville and to the local office of the department or the licensed child-placing agency or licensed clinical social worker which has been directed to answer the order of reference issued in accordance with subsection (e) within three (3) business days after its filing.

(d) Any person who files a petition to adopt a child less than thirty (30) days old shall notify the putative father registry maintained by the department of the filing of the petition unless the known biological or legal father:

(1) Has executed a surrender or a waiver of interest in accordance with this part;

(2) Has had his parental rights terminated by a court of competent jurisdiction; or

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(3) Has been made a party to the adoption proceedings and has been served notice as required by law.

(e)(1) Upon filing the adoption petition, the prospective adoptive parents shall notify the court if they have requested a home study or preliminary home study pursuant to subsection (a) and shall file or caused to be filed a copy of the home study or preliminary home study with the court, under seal, unless the court waives the home study or the preliminary home study for prospective adoptive parents who are related to the child.

(2)(A) Upon filing of the petition for adoption, the petitioners also shall inform the adoption court of the name of the court in which the surrender was filed, and the adoption court shall request the court where the surrender was filed to forward a certified copy of the surrender and copies of the medical and social information obtained at the time of the surrender to the adoption court and any home studies which were ordered by the court. This information shall be made a part of the adoption record, but shall be confidential and shall be placed in a sealed envelope within the court file or shall be filed in a protected electronically maintained file and shall remain under seal and shall not be open to inspection by any person or agency other than the department or the licensed child-placing agency or licensed clinical social worker to which the order of reference is issued under this subsection, except by written order of the court or as otherwise permitted under this part.

(B) Unless waived by the court in accordance with subsection (e)(1), the court shall order a licensed child-placing agency or licensed clinical social worker, or the department if the

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petitioners are indigent under federal poverty guidelines, to conduct a preliminary home study to be submitted within fifteen (15) days of the date of the order if, at the time the petition is filed, the petitioners have custody of the child, and the petitioners have not submitted to the court a timely home study or timely preliminary home study with the petition, the court may enter any orders necessary for the child's care and protection as permitted by subsection (f) pending receipt of the preliminary home study.

(3) If no prior or updated home study of the prospective adoptive parents has been conducted and filed with the court at the time the order of reference is issued and such home study has not been waived in accordance with subsection (e)(1), then the court, within five(5) days of the date the petition is filed shall direct the order of reference to a licensed child-placing agency or licensed clinical social worker chosen by the petitioners or, if the petitioners are indigent under federal poverty guidelines or if the child was placed with the petitioners by the department, to the department, to submit a home study of the petitioners and a preliminary court report, and any supplemental court reports as may be necessary, and a final court report concerning the circumstances of the child, the child's antecedents, and the proposed adoptive home. Except for good cause shown, the court shall issue the order of reference to the licensed child-placing agency, the licensed clinical social worker, or the department which conducted the home study pursuant to the prospective adoptive parents' request pursuant to subsection (a).

(4) The information in subdivision (2) shall be made available to the licensed child-placing agency or licensed clinical social worker or the department which responds to the order



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or reference. If the necessary medical and social information was obtained by the court pursuant to the provisions of §36-1-111, it shall not be necessary for the department or the licensed child-placing agency or licensed clinical social worker to have any further contact with the biological parents in response to the order of reference unless it is believed the information contained in the statements is inaccurate or incomplete in which case the department, licensed child-placing agency, or the licensed clinical social worker may contact the biological or prior legal parents or the guardian to obtain such information.

(5)(A) A home study and preliminary court report shall be filed by the licensed child-placing agency or licensed clinical social worker or the department within sixty (60) days of the receipt of the order of reference and may be supplemented from time to time as the licensed child-placing agency, the licensed clinical social worker or the department determine necessary, or as ordered by the court.

(B) A final court report shall be submitted immediately prior to the finalization of the adoption upon fourteen (14) days notice to the department, the licensed child-placing agency, or the licensed clinical social worker.

(f)(1) Upon the filing of the petition, the court shall have exclusive jurisdiction of all matters pertaining to the child, including the legitimization of the child sought by a biological father pursuant to § 36-2-201 et seq., except for allegations of delinquency, unruliness or truancy of the child pursuant to title 37; provided, that, unless a party has filed an intervening petition to an existing adoption petition concerning a child who is in the physical custody of the original

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petitioners, the court shall have no jurisdiction to issue any orders granting custody or guardianship of the child to the petitioners or to the intervening petitioners or granting an adoption of the child to the petitioners or to the intervening petitioners unless the petition affirmatively states, and the court finds in its order, that the petitioners have physical custody of the child at the time of the filing of the petition, entry of the order of guardianship, or entry of the order of adoption or unless the petitioners otherwise meet the requirements of § 36-1-111(d)(6).

(2) Except for proceedings concerning allegations of delinquency, unruliness, or truancy of the child under title 37, any proceedings which may be pending seeking the custody or guardianship of the child who is in the physical custody of the petitioners on the date the petition is filed, or where the petitioners meet the requirement of § 36-1-111(d)(6), shall be suspended pending the court's orders in the adoption proceeding and jurisdiction of all other pending matters concerning the child and proceedings concerning legitimation of the child shall be transferred to and assumed by the adoption court; provided, however, until the adoption court enters any orders affecting the child's custody or guardianship as permitted by this part, all prior parental or guardian authority, prior court orders regarding custody or guardianship, or statutory authority concerning the child's status shall remain in effect.

(3) If no prior order of guardianship or custody has been entered giving guardianship or legal custody to the petitioners, the court may, upon receipt of a satisfactory preliminary home study or a satisfactory home study, and if the petitioners have physical custody of the child or otherwise meet the requirements of § 36-1-111(d)(6), issue an order of guardianship or custody

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with the same authority given to the petitioners as is provided pursuant to §§ 36-1-102(22), and 37-1-140 as the case may be.

(4) If an order of guardianship is entered pursuant to this part, the petitioner(s) shall have authority to act as guardian ad litem or next friend of the child in any suit by the child against third parties while the child is in the care and custody of the petitioners.

(g)(1) The court shall order a licensed child-placing agency or licensed clinical social worker, or the department if the parents are indigent under federal poverty guidelines or if the child was placed with the prospective adoptive parents by the department, to provide supervision for the child who is in the home of prospective adoptive parents and to make any necessary reports which the court should have concerning the welfare of the child pending entry of the final order in the case; provided, however the court may waive this requirement when the child is to be adopted by related persons.

(2) Unless they are indigent under federal poverty guidelines, the prospective adoptive parents shall pay the costs of the home study and the supervision required by this subsection and the supervision required by the court.

(h) The filing of the petition shall be deemed the commencement of a custody proceeding for purposes of the Uniform Child Custody Jurisdiction Act (UCCJA) pursuant to § 36-6-201 et seq.

(i) If the court grants guardianship or custody of the child upon the filing of the petition or at anytime thereafter to any person, and the child is possessed of any real or personal property

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to be administered, the court shall appoint a guardian of the property of the child if no guardian or trustee is currently appointed to care for the child's property.

(j) When the husband and wife are joint petitioners, the death of one spouse shall not result in the dismissal of the petition for adoption for that reason alone, and the court may proceed to grant the adoption to the surviving petitioner.

(k)(1) The department, a licensed child-placing agency, or a licensed clinical social worker, shall have the right to intervene in the adoption proceeding at any time to present evidence as to the best interests of the child by filing a sworn complaint in the adoption proceeding.

(2)(A) Subject to the provisions of subsection (f), the court may make any necessary orders upon its own motion or upon the sworn complaint of the department, a licensed child-placing agency, or a licensed clinical social worker for the protection and welfare of the child, including emergency ex parte orders for the immediate care and protection of the child as permitted pursuant to § 36-1-111(v)(1)(A)-(C).

(B) Any emergency ex parte orders for the protection of the child may be entered if the court finds probable cause to believe that the child's immediate health or safety would be endangered. The ex parte order may direct the removal of the child from the custody of the prospective adoptive parents.

(3) If an ex parte order of protection is entered which removes the child from the custody of the prospective adoptive parents, a preliminary hearing shall be held within five (5) days,

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excluding Saturdays, Sundays, and legal holidays, to determine the need for the continuance of such order.

(4) The prospective adoptive parents shall be necessary parties at the preliminary hearing and the court may order the department or the licensed child-placing agency or licensed clinical social worker to provide any necessary information or reports concerning the welfare of the child as it may require.

(5) If the court determines at the preliminary hearing that there is probable cause to believe that the child's health or safety will be immediately endangered if the child remains in or is returned to the custody of the prospective adoptive parents, or that any other orders must be entered to ensure the health and safety of the child, it shall make such orders as are necessary to protect the child and may continue or place temporary legal custody of the child with the department or a licensed child-placing agency or any other suitable persons approved by the department or a licensed child-placing agency or licensed clinical social worker.

(6) The court shall set a final hearing concerning the allegations involving the prospective adoptive parents within thirty(30) days, except for good cause shown in an order entered by the court.

(7) If the court determines upon clear and convincing evidence at a final hearing that it should make another disposition of the child, it may remove the child from the custody of the prospective adoptive parents and may make any other orders necessary for the child's welfare and best interests, including an alternate custody or guardianship order for the child and the

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court may dismiss the adoption petition as provided in § 36-1-118. If the court does not find by clear and convincing evidence that it should make another disposition of the child, it shall dismiss the complaint which had made the allegations concerning the child's best interests and the adoption proceedings shall continue pending further orders of the court.

**T.C.A. § 36-1-117. Parties to proceedings--Termination of rights of putative father--Consent of parent or guardian--Service of Process.** (a)(1) Unless the parent, the legal parent, the other parent, or the guardian, or, as provided in subsections (b) and (c), the putative biological father, of the child has surrendered his or her parental or guardianship rights to the child or has executed a parental consent which has been confirmed by the court, has waived his rights pursuant to §36-1-111(w), or unless his or her rights have been terminated by the order of a court of competent jurisdiction, the legal parent(s), guardian of the person of the child or of an adult, and the biological parents of the child must be made parties to the adoption proceeding or to a separate proceeding seeking the termination of those rights, and their rights to the child must be terminated by a court to authorize the court to order the adoption of the child or adult by other persons.

(2) The parental rights of a putative biological father who has filed a petition to legitimate the child shall be determined by the procedures in subsection (b).

(b)(1) If the biological father has filed a petition to legitimate the child who is the subject of the adoption proceeding, the adoption court shall have exclusive jurisdiction to hear and

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decide any legitimization petition filed in the adoption proceeding or which has been transferred to it pursuant to § 36-2-201.

(2) The legitimization petition shall be heard and concluded prior to any action by the adoption court to determine whether to grant the petition for adoption.

(3)(A) The petition shall be granted if it is shown by a preponderance of the evidence that the petitioner is the biological father of the child; provided, however, the granting of such petition shall not prevent the filing and consideration of a petition pursuant to § 36-1-113.

(B) If the petition for legitimization is granted, then the parental rights of the legal father must be terminated as provided by § 36-1-113 or as otherwise provided by law, or he must execute a surrender under the provisions of § 36-1-111, file a parental consent, or he must co-sign the petition for adoption pursuant to the provisions of subsection (f) before the court may be authorized to order an adoption of the child.

(4) If grounds for termination of parental rights do not exist, then the child's legal father shall be granted custody of the child, unless the court determines, upon clear and convincing evidence, that the legal father is unable currently to provide proper custodial care for the child in which case the court shall make such orders as may be necessary for the child's care and supervision pursuant to § 37-1-140; or unless the child's mother's rights have not been previously terminated, in which case the court shall make a determination of the custodial status of the child between the legal father and the mother, and the court may make such other orders as are necessary to provide for the child's care and supervision. If the court determines that

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neither parent is suitable to provide for the care of the child, it shall make such other orders as it may determine are necessary for the child's care and supervision.

(5) If the legitimation petition is not granted by the court after a hearing and determination based upon subdivision (3), then the court may enter an order to that effect specifying the basis for the determination and may proceed with the adoption proceeding without further need to terminate the rights of that putative father.

(6) The provisions of the Uniform Child Custody Jurisdiction Act (UCCJA- §§ 36-6-201 et seq.) shall govern jurisdiction of the adoption court in this state if a legitimation proceeding has been filed by the putative father in another state, territory, or foreign country.

(c) The parental rights of the putative biological father of a child who has not filed a petition to legitimate the child or who has not legitimated the child who is the subject of an adoption proceeding and who meets any of the following criteria shall be terminated by surrender, parental consent, termination of parental rights pursuant to § 36-1-113, or by waiver of interest, before the court may enter an order of adoption concerning that child:

(1) The biological father of a child has filed with the putative father registry, pursuant to § 36-2-209 a statement of an intent to claim paternity of the child at any time prior to or within thirty (30) days after the child's birth and has notified the registry of all address changes; or

(2) The biological father has been specifically identified to the petitioners or their attorney, or to the department, the licensed child-placing agency, or the licensed clinical social worker involved in the care, placement, supervision, or study of the child as the child's father by



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the child's biological mother in a sworn, written statement or by other information which the court determines to be credible and reliable; or

(3) The biological father has claimed to the child's biological mother, or to the petitioners or their attorney, or to the department, a licensed child-placing agency, or a licensed clinical social worker who or which are involved in the care, placement, supervision, or study of the child that he believes he is the father of the child; provided, however, that if the biological father has previously notified the department of his claim to paternity of the child pursuant to the provisions of the putative father registry, § 36-2-209(e)(3), he shall be subject to all the requirements for waiver of notice provisions of subsection (f)(2) of that section and to all requirements for filing a legitimation petition pursuant to subsection (j) of that section; or

(4) The biological father is recorded on the child's birth certificate as the father of the child; or

(5) The biological father is openly living with the child at the time the adoption proceeding is commenced and is holding himself out as the father of the child; provided that, if custody of the child has been removed from the biological mother by court order, notice shall be given to any man who was openly living with the child at time of the initiation of the custody or guardianship proceeding which resulted in the removal of the custody or guardianship of the child from the biological mother or biological father, if the man held himself out to be the father of the child at the time of the removal; or

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(6) The biological father has entered a foster care plan or plan of care under the provisions of title 37, chapter 2, part 4 or under similar provisions of any other state or territory in which he acknowledges paternity of the child.

(d)(1) Other biological or legal relatives of the child or the adult are not necessary parties to the proceeding and shall not be entitled to notice of the adoption proceedings unless they are legal guardians as defined in § 36-1-102(21) or legal custodians of the person of the child or adult at the time the petition is filed.

(2) The legal custodian of the child may only receive notice of the proceeding and may only present evidence as to the child's best interests.

(e) Any public or private agency which may have custody or complete or partial guardianship of the child and which has not given consent as provided under this part, shall be made a defendant and given notice of the filing of the adoption or termination of parental or guardian rights petition filed under this part or under title 37 and shall be permitted to assert its rights to custody or guardianship of the child.

(f) When the child is related to one of the petitioners or is the stepchild of the petitioner, and the legal or biological parent(s) or guardian(s) of the child signs the adoption petition as a co-petitioner for the specific purpose, as stated in the petition, of giving consent to the adoption, no further surrender, parental consent, or termination of parental rights shall be required as to that parent or guardian, as the act of joining in the adoption petition shall be deemed a complete surrender, notwithstanding the provisions of subsection (g), and no further notice or service of

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process need be made to that person; provided, however that where the step-parent of a step-child seeks to adopt a step-child, the co-signing of the petition by the child's parent who is the spouse of the petitioner shall not affect the existing parent/child legal relationship between that parent and his or her child who is the subject of the adoption petition by the step-parent of the child.

(g)(1) A parent may sign a petition for adoption as provided by § 36-1-102(13) for the purpose of giving parental consent to the adoption of his or her child by unrelated persons. The petition must state that the parent understands that the entry of an order confirming the parental consent, without revoking the parental consent prior to the entry of such order, will terminate his or her parental rights to the child forever and that he or she will have no legal rights to the custody, control, or to visitation with the child in the future.

(2) It is specifically and expressly declared that the act of signing the adoption petition shall not terminate the parental rights of such parent until the court where the adoption petition is filed has entered an order confirming the parental consent and until the court shall have required such parent to answer, under oath, each of the questions required of parents pursuant to § 36-1-111(k), including the question regarding the contact veto required by § 36-1-111(k)(3).

(3) The parent signing the petition for the purpose of giving parental consent shall be provided ten(10) calendar days written notice by the court of the appearance date for the required response to the court pursuant to § 36-1-111 before entry of the order confirming the parental consent is entered by the court. Unless disabled or his or her appearance is

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impracticable as determined by the court, that parent must personally attend the hearing before the court in chambers. If the parent is disabled or his or her appearance is impracticable as determined by the court, the answers shall be taken under oath at the parent's location by the court or by any person appointed by an order of the court to do so. If the parent executing the parental consent cannot be found or does not appear at the time of such hearing, the court may terminate that parent's rights upon any grounds available pursuant to § 36-1-113.

(4) Following the satisfactory completion of such questions, which shall be recorded on the forms required pursuant to § 36-1-111, the court shall enter an order which confirms the parental consent and the court shall then, and only then, be authorized to enter an order terminating such parent's rights to the child who is the subject of the adoption petition; provided, however, that until the court enters a final order of adoption, the parent may revoke his or her parental consent at anytime by executing a revocation form as provided by § 36-1-112 and such revocation shall negate and void the parental consent executed pursuant to this subdivision.

(5) The death of the consenting parent or termination of parental rights of such parent by a validly executed surrender or by court action prior to the entry of the adoption order will make any requirements for the parental consent contained herein unnecessary.

(h) The department, through any authorized person, or the executive head of such licensed child-placing agency may give consent to the adoption of the child by the petitioners for whom it holds complete or partial guardianship.

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(i)(1) When the child who is the subject of the adoption is fourteen (14) years of age or older at any time before the granting of the petition, the adoption court must receive the sworn, written consent of such child to the adoption which shall be filed with the record and the consent of such minor shall be recited in the order of adoption. The court shall receive the consent and testimony from the child in chambers with only the child and a guardian ad litem appointed by court for the child present.

(2) If the child is mentally disabled, the court shall appoint a guardian ad litem to give or withhold consent for the child to the adoption and the court shall follow the procedure of subsection (j)(2)(B) and (C).

(j)(1) When the person sought to be adopted is eighteen (18) years of age or older, only the sworn, written consent of the person sought to be adopted shall be required and no order of reference or any home studies need be issued.

(2)(A) If the adult person to be adopted has been adjudicated incompetent, then the written consent of the adult person's guardian or conservator of the person shall be required.

(B) If the person is without a guardian or conservator and the court has reason to believe that the person is incompetent to give consent, then the court shall appoint a guardian ad litem who shall investigate the person's circumstances and that guardian ad litem shall give or withhold consent.

(C) The guardian ad litem shall file a written report stating the basis for the decision and the court shall afford a hearing to all parties to present evidence as to the best interests of the

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person, and if the court determines upon clear and convincing evidence that the decision to withhold consent by the guardian ad litem is arbitrary and is not in the best interests of the incompetent person, it may proceed to make any other orders it deems necessary for the person's welfare, including granting the adoption petition.

(3) In all other situations under this subsection for adult persons who are the subject of an adoption petition, no order of reference, social investigation, report to the court by a licensed child-placing agency or licensed clinical social worker or the department, or the waiting period under § 36-1-119 shall be required.

(k) When the child has been surrendered or parental rights have been relinquished to an agency operating under the laws of another state, territory, or foreign country, or such agency has received guardianship or the right to place a child for adoption pursuant to the laws of its jurisdiction, the surrender or relinquishment, or any order terminating parental rights, and the written consent of the agency pursuant to the laws of its jurisdiction or pursuant to its procedures shall be filed with the adoption petition and shall be sufficient for the purposes of providing the necessary consent required by this part.

(l) If a person has surrendered his or her parental right or guardianship rights, if a person has filed a parental consent and the consent has been confirmed as provided herein, if a person has executed a waiver of interest pursuant to this part, if a person or agency has consented to the adoption of the child who is the subject of the adoption proceeding, or if a person's parental

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or guardianship rights to the child have been properly terminated, no notice of the adoption proceeding or service of process need be made to that person or agency.

(m)(1) Service of process for adoption proceedings pursuant to this part shall be made pursuant to the Tennessee Rules of Civil Procedure and the statutes governing substituted service.

(2) Service of process for proceedings to terminate parental rights in juvenile court shall be pursuant to the Tennessee Rules of Juvenile Procedure, the statutory requirements of title 37, chapter 1, part 1 where not otherwise in conflict with this part, and the statutes governing substituted service.

(3) Any motion for an order for publication in these proceedings shall be accompanied by an affidavit of the petitioners or their legal counsel attesting, in detail, to all efforts to determine the identity and whereabouts of the parties against whom substituted service is sought.

(n) The court may enter a default judgment against any party to the adoption or termination proceeding upon a finding that service of process has been validly made against that party in accordance with the Tennessee Rules of Civil or Juvenile Procedure and the statutes concerning substituted service.

**T.C.A. § 36-1-118. Dismissal of adoption proceedings and guardianship orders--**  
**Revocation of Surrender by Court--Notice--Disposition of child.** (a) If at any time between the surrender of a child directly to prospective adoptive parents and the filing of an adoption petition or at any time between the filing of an adoption petition and the issuance of the final

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order of the adoption, it is made known to the court on the basis of clear and convincing evidence that circumstances are such that the child should not be adopted, the court may dismiss the adoption proceedings or, if no adoption proceedings have been commenced, the court may order the surrender or parental consent to prospective adoptive parents to be revoked and may modify or dismiss any order of guardianship previously entered, and may order the re-instatement of parental rights, all in consideration of the best interests of the child.

(b) If it is made known to the court where the surrender of a child directly to adoptive parents was executed or filed and which, in accordance with § 36-1-111(r), has jurisdiction of the child, that the prospective adoptive parents to whom the child had been surrendered have not filed a petition to adopt the child within thirty (30) days of the date of execution of the surrender, or if the court where the adoption petition determines that the prospective adoptive parents do not have, or have not obtained, an order of guardianship or an order of legal custody for the child who is the subject of the adoption petition within thirty (30) days of the date of the filing of the petition, the court shall set a hearing for the purpose of determining if any surrender to the prospective adoptive parents should be ordered revoked, if any order of guardianship should be modified or dismissed, if an order of custody or guardianship should be entered, if parental rights should be re-instated, or if some other disposition should be made for the child in the child's best interests.

(c)(1) Before entering an order pursuant to subsections (a) or (b) directing that the surrender directly to prospective adoptive parents be revoked or that the parental consent to



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prospective adoptive parents disallowed, or that the order of guardianship be modified or dismissed, that an order of custody or guardianship be entered, or that parental rights be re-instated, or before dismissing the adoption proceedings, the court must give written notice of not less than five (5) days, excluding Saturdays, Sundays, and legal holidays, of its intent to do so.

(2) The notice shall be given to the persons to whom the child was surrendered and for whom an order of guardianship was entered, to any petitioners and other parties to the proceeding, and to the department or licensed child-placing agency, or licensed clinical social worker which placed the child or which conducted any studies involving the placement of the child in the home, and to the parent whose rights were terminated, but only if the court will consider reinstatement of that parent's rights.

(d)(1) Following the hearing, the court may order the revocation of the surrender or any parental consent, modify or dismiss the order of guardianship, may enter an order of custody or guardianship, may order re-instatement of parental rights, or may dismiss the petition if it determines upon clear and convincing evidence that such action is in the child's best interests.

(2) The court may re-instate parental rights only with the consent of the parent whose rights were terminated.

(e)(1) After the court's dismissal of the petition or after the order of revocation by the court of a surrender or parental consent, if the child had been in the legal custody or guardianship of the department or a licensed child-placing agency prior to the surrender, the parental consent, the entry of a guardianship order, or the filing of the adoption petition, the

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court shall enter an order directing that the child shall be placed in the guardianship of the department or the licensed child-placing agency which had legal custody or guardianship of the child immediately before the placement was made with the prospective adoptive parents or immediately before the surrender was executed or parental consent was filed or before the prior order giving guardianship to the prospective adoptive parent was entered.

(2) In all other cases in which the child was not in the legal custody or guardianship of the department or a licensed child-placing agency prior to the revocation by the court of the surrender or parental consent to prospective adoptive parents or prior to the dismissal of the guardianship order, or prior to the dismissal of the adoption proceeding by the court, or when the agency which had had custody or guardianship of the child prior to the child's placement or prior to the revocation of the surrender by the court, or dismissal of the petition cannot or will not resume guardianship or custody of the child, the child shall remain a ward of the court which shall have jurisdiction to award the child's guardianship or legal custody according to the best interest of the child.

(3) The court shall continue to have jurisdiction of the child to make such further orders as are necessary until another adoption petition is filed at which time jurisdiction over the child shall transfer to the court where the new adoption petition may be filed, provided, however, the juvenile court shall retain jurisdiction of the child for allegations of delinquency, unruliness, and truancy pursuant to the provisions of title 37, chapter 1, part 1.

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(4)(A) Unless the child's custody or guardianship is required to be returned to the custody of the department or a licensed child-placing agency or unless the court must return jurisdiction of the child to a court with prior jurisdiction, then, after entry of an order revoking the surrender or parental consent, dismissing the order of guardianship, after entry of an order of custody or guardianship, or after dismissing the petition for adoption, the court may, in its discretion, by order entered in the record, transfer all jurisdiction and wardship of the child to the juvenile court of the county of the child's residence.

(B)(i) After the clerk has transferred to the department the information required under this part, certified copies of any records of the child needed by the juvenile court from the court where the surrender was revoked, the guardianship order dismissed, the custody or guardianship order was entered, or the adoption petition was dismissed shall be transferred to the juvenile court and the clerk of the court which had taken action pursuant to subsection (d) and subdivision (4) of this section shall maintain the original of the records in that court's files.

(ii) Except as otherwise provided by this part, all such records shall remain confidential in the files of the juvenile court and shall not be open to any person except the child's legal custodian or legal guardian, or pursuant to a written order of the court, or to the department which may be investigating a report of child abuse or neglect or which may be responding to an order of reference by the juvenile court or to a law enforcement agency investigating a report of child abuse or neglect or which is investigating any crime involving the child.

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(5) Any order of guardianship or legal custody entered pursuant to this subsection shall continue until modified by the court to which the jurisdiction is transferred or by the court where a new adoption petition is filed.

(6) If guardianship is awarded pursuant to this section, the court shall, in addition to the authority under § 37-1-140, give authority to place the child for adoption and to consent to adoption, or to adopt the child, or may give authority to surrender the child for that purpose.

(7) The department or the licensed child-placing agency receiving guardianship of the child under this section shall have authority to make another placement of the child for adoption and to consent to the adoption by new adoptive parents without further approval of the court.

(8) For purposes of this section, legal custody awarded by the court shall vest the legal custodian with the authority to provide the care and control of the child as set forth in § 37-1-140, but does not, by itself, without entry of an order of guardianship pursuant to this part, authorize the legal custodian to place the child for adoption or to consent to the adoption.

(9) Prior to entering an order establishing a permanent plan for the child who is not returned to the department or a licensed child-placing agency as provided in subdivision (1), the court shall order the department or a licensed child-placing agency or licensed clinical social worker to investigate and report to the court within sixty (60) days regarding a suitable permanent plan for the child. Subject to the jurisdiction of the juvenile court for allegations of delinquency, unruliness, or truancy against the child pursuant to title 37, the court may make further orders of custody or guardianship upon receipt of the report.

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**T.C.A. § 36-1-119. Final order of adoption--When entered.** (a) Unless the child is related to the petitioners, no final order of adoption shall be entered before the home study has been filed with the court and before the petition has been on file at least six (6) months and before a final court report is filed with the court, except when the order is based upon a petition for readoption pursuant to § 36-1-106.

(b) If the child is related to the petitioners, the court may, in its discretion, waive the six (6) month waiting period, the orders of reference, the preliminary home study and home study, the order of guardianship or custody, and the final court report and may proceed to immediately grant an order of adoption.

(c) If the child has already resided in the home of the petitioners for six (6) months, the court has received the home study and final court report concerning the circumstances of the child and the petitioners, and is satisfied that the adoption will be in the best interest of the child, the court may waive the six (6) month waiting period after the filing of the adoption petition and may enter an order of adoption.

(d) If no appeal has been taken from any order of the court, the court must complete or dismiss the adoption proceeding by entering a final order within two (2) years of the filing of the petition, unless the petitioner shows good cause why such final order should not be entered.

(e) If an appeal is taken from an order of the court, the proceeding must be completed by the court by entering a final order of adoption or a final order dismissing the proceeding within

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one (1) year from the final judgment upon appeal, except for good cause shown by the petitioner.

**T.C.A. § 36-1-120. Final order of adoption--Contents--Report of Foreign Birth. (a)**

The final order of adoption must state:

- (1) The full name of the child used in the proceeding;
- (2) The full names of the petitioners and their county of residence and whether the petitioner is a step-parent of the adopted person;
- (3) The fact and date of the filing of the petition;
- (4) The date when the petitioners acquired physical custody of the child and from what person or agency or by which court order;
- (5) The fact and date of the filing of a guardianship order, if such order has been entered;
- (6)(A) That all persons entitled to notice of the proceedings have been served with process and the status of those persons in the proceedings and that all necessary parties were properly before the court;
- (B) That the time for answering the petition has expired;
- (C) That termination of all parental or guardian rights to the child by court order or surrenders or parental consents which are necessary to proceed with the adoption have occurred; and

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(D) That orders reflecting the termination of parental rights pursuant to actions filed by the prospective adoptive parents, orders confirming parental consents, or the consents of the department or a licensed child-placing agency with authority to place and consent to the child's adoption, the consent of the child who is over fourteen(14) years of age, the consent of the guardian ad litem of an incompetent adult or mentally disabled child, or of any other person or entity required by law have been filed in the court record;

(7) That if the child has been brought into Tennessee from another state or foreign country there has been compliance with the Interstate Compact on the Placement of Children (ICPC), if applicable, or with the requirements of the foreign government or legal authorities in the foreign country for the petitioners to have custody of the child and with all requirements of the United States government for the immigration of the child to this country, unless good cause has been shown to excuse such compliance;

(8) That the child's adoption is in compliance with or is not subject to the provisions of the Indian Child Welfare Act (ICWA), 25 U.S.C. § 1901 et seq.;

(9) Whether the child has been the subject of an adoption decree in a foreign country in which the petitioners were given the child in adoption by such decree and whether this adoption is a readoption for the purpose of complying with the requirements of the United States government for the purposes of the child's immigration or naturalization;

(10) That the petitioners are fit persons to have the care and custody of the child;

(11) That the petitioners are financially able to provide for the child;

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(12) That the child is a suitable child for adoption; and

(13) That the adoption is for the best interest of the child.

(b) Before the entry of the final order, there shall be filed with the proposed order:

(1) An affidavit by the attorney for the petitioners detailing the fees charged for any services rendered in the placement of the child or for legal services, and any fees paid by the attorney to any other person or entity for services rendered in securing the placement of the child or for providing any services related to securing any home studies to secure a surrender or adoption of the child; and

(2) An affidavit by the licensed child-placing agency or licensed clinical social worker which placed the child with the petitioners regarding the fees charged by them to the adoptive parents for the placement of the child and for any home studies and supervision of the placement conducted by the licensed child-placing agency or by the licensed clinical social worker.

(c) The court shall, if satisfied that all the requirements necessary for the adoption of the child are present, thereupon decree the adoption of the child by the petitioners and shall order that the name of the child be changed to that requested by the petitioners.

(d) The clerk of the court shall furnish the department a certified copy of all final orders of adoption and the affidavits required under subsection (b) or final orders dismissing the adoption proceedings, and the department shall record pertinent information from the order and



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the department shall maintain a copy of the order with all other information in the sealed adoption record.

(e)(1) All final orders of adoption shall be reported by the clerk to the division of vital records of the department of health by sending a certified copy of the order or a certified certificate of adoption and by reporting the information required by that division for a new certificate of birth or for a Report of Foreign Birth for the child to the registrar of the division of vital records for preparation of a new certificate of birth by adoption or for a Report of Foreign Birth as provided in §§ 68-3-310--313.

(2) The court clerk shall supply the registrar of the division of vital records the following information for the preparation of a Report of Foreign Birth if the child who has been adopted was born in a foreign country:

- (A) The full adoptive name of the child;
- (B) The adopted child's date of birth;
- (C) The adopted child's sex;
- (D) The city, province and country of the adopted child's birth;
- (E) The full name of the adoptive father;
- (F) The full maiden name of the adoptive mother; and
- (G) The legal residence of the adoptive parents.

(f) Costs for furnishing certified copies under subsections (d) and (e) shall be taxed to the petitioners.

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**T.C.A. § 36-1-121. Effect of adoption on relationship.** (a) The signing of a final order of adoption terminates any existing guardianship orders and establishes from that date the relationship of parent and child between the adoptive parent(s) and the adopted child as if the adopted child had been born to the adoptive parent(s) and the adopted child shall be deemed the lawful child of such parent(s), the same as if the child had been born to the parent(s), for all legal consequences and incidents of the biological relation of parents and children.

(b) The adopted child and his or her descendants shall be capable of inheriting and otherwise receiving title to real and personal property from the adoptive parents and their descendants, and of succeeding to the rights of either such parent or such parent's descendants in such property, whether created by will, by other instrument or by law, including, but not limited to, taking as a remainderman following a life interest or estate in either such parent or such parent's ancestor or descendant. The adopted child shall have the same such rights as to lineal and collateral kindred of either adoptive parent and the ancestors or descendants of such kindred, as the adoptive child has as to such parent, and the lineal and collateral kindred of either adoptive parent and the descendants of such kindred shall have the same such rights as to the adopted child and his descendants, but only as to property of the adopted child acquired after his or her adoption.

(c) In the construction of any instrument, whether will, deed, or otherwise, whether executed before or after the effective date of this act, and whether the testator or other party creating an interest by such instrument died before or after the effective date of this act, or

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before or after an adoption, a child so adopted and the descendants of such child are deemed included within the class created by any limitation contained in such instrument restricting a devise, bequest or conveyance to the lawful heirs, issue, children, descendants, or the like, as the case may be, of the adoptive parent, or of an ancestor or descendant of one (1) of them, and such adopted child shall be treated as a member of such class unless a contrary intention clearly shall appear by the terms of such instrument or unless the particular estate so limited shall have vested in interest and in possession in and as to the person or persons entitled thereto on the effective date of this act; provided, that this sentence shall not apply in the construction of any instrument as to any child who is over twenty-one (21) years of age at the time of such child's adoption.

(d) "Contrary intention clearly shall appear," as set forth in this section shall not be found by any court to exist by use in such instrument of such terms as "issue," "children" or similar legal terms, unless the instrument specifically states that adopted children are to be excluded from such class.

(e) An adopted child shall not inherit real or personal property from a biological parent or relative thereof when the relationship between them has been terminated by final order of adoption, nor shall such biological parent or relative thereof inherit from the adopted child. Notwithstanding the provisions of subsection (a), if a parent of a child dies without the relationship of parent and child having been previously terminated and any other person

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thereafter adopts the child, the child's right of inheritance from or through the deceased biological parent or any relative thereof shall be unaffected by the adoption.

(f) The adoptive parents of a child shall not be required by any order of the adoption court to permit visitation by any other person, nor shall the order of the adoption court place any conditions on the adoption of the child by the adoptive parents. Any provision in an order of the court or in any written agreement or contract between the parent or guardian of the child and the adoptive parents requiring visitation or otherwise placing any conditions of the adoption shall be void and of no effect whatsoever; provided, however, nothing under this part shall be construed to prohibit "open adoptions" where the adoptive parents permit, in their sole discretion, the parent or guardian of the child who surrendered the child or whose rights to the child were otherwise terminated, or the siblings or other persons related to the adopted child, to visit or otherwise continue or maintain a relationship with the adopted child, and; provided, further, that the permission or agreement to permit visitation or contact shall not, in any manner whatsoever, establish any enforceable rights in the parent or guardian, the siblings or other related persons.

(g) The adoption of a child shall have no effect upon arrearages owed by an obligor of child support for that child which existed prior to the termination of parental rights or to that child's adoption and which are owed by an obligor to any person or any governmental agency, nor shall it affect any other financial obligations of a person which may be related to the care of the adopted child prior to a surrender, termination of parental rights, or adoption involving that child.

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**T.C.A. § 36-1-122. Binding effect of adoption.** (a) When a child is adopted pursuant to the provisions of this part, the adoptive parents shall not thereafter be deprived of any rights in the child, at the insistence of the child's biological or prior legal parents or guardian of the child or any other person or agency except in the same manner and for the same causes as are applicable in proceedings to deprive biological or legal parents or guardians of their children or wards as provided by law.

(b)(1) After the final order of adoption is entered, no party to an adoption proceeding, nor anyone claiming under such party, may later question the validity of the adoption proceeding by reason of any defect or irregularity therein, jurisdictional or otherwise, but shall be fully bound by the order, except for such appeal as may be allowed by law.

(2) In no event, for any reason, shall an adoption be overturned by any court or collaterally attacked by any person or entity after one (1) year from the date of entry of the final order of adoption by a court of competent jurisdiction. This provision is intended as a statute of repose.

(3) The failure of the clerk of the court, the department, a licensed child-placing agency, or a licensed clinical social worker to perform any of the duties or acts with the time requirements of this part shall not affect the validity of any adoption proceeding.

**T.C.A. § 36-1-123. Biological parents illegally obtaining custody of a child--**  
**Custodial interference.** Any biological or prior legal parents or guardian whose rights to a child have been terminated by order of any court under this part or any other title or by the laws of

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any other state or territory, or foreign country, or by a surrender, parental consent, or waiver of interest, and who shall, otherwise than by legal process, obtain custody of the child shall be in violation of and shall be subject to prosecution pursuant to the provisions of § 39-13-306.

**T.C.A. § 36-1-124. Contested terminations of parental rights and adoptions--**

**Appeals-Expedited Schedule.** (a) In all cases where the termination of parental rights or adoption of a child is contested by any person or agency, the trial court shall, consistent with due process, expedite the contested termination or adoption proceeding by entering such scheduling orders as are necessary to ensure that the case is not delayed, and such case shall be given priority in setting a final hearing of the proceeding and shall be heard at the earliest possible date over all other civil litigation other than child protective services cases arising under title 37, chapter 1, parts 1, 4, and 6.

(b) In all cases which are appealed from the decision of a trial court, the appellate court shall, consistent with its rules, expedite the contested termination of parental rights or adoption case by entering such scheduling orders as are necessary to ensure that the case is not delayed, and such case shall be given priority over all other civil litigation in reaching a determination on the status of the adoption, other than child protective services cases arising under title 37, chapter 1, parts 1, 4, and 6.

(c) It is the intent of the general assembly that the permanency of the placement of a child who is the subject of a termination of parental rights proceeding or an adoption proceeding not be delayed any longer than is absolutely necessary consistent with the rights of all parties,

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but that the rights of the child to permanency at the earliest possible date be given priority over all other civil litigation other than child protective services cases arising under title 37, chapter 1, parts 1, 4, and 6.

**T.C.A. § 36-1-125. Confidentiality of records. Penalties for unauthorized**

**disclosure. Protective orders.** (a) All adoption or sealed adoption records held by a court, a licensed child-placing agency, a licensed clinical social worker, or the department, and not yet under seal, or any sealed adoption records which have been unsealed for any reason, any post-adoption records, and any adoption assistance records are confidential and shall not be subject to disclosure except as provided in this part.

(b) Adoption records may be utilized by the judge of the court, by the clerk of the court, or by a licensed child-placing agency, a licensed clinical social worker, or by the department, in any act consistent with the litigation of the adoption, custody or guardianship proceedings involving a person in any court, or for the placement, study, or supervision of a person for whom an adoption or custody or guardianship proceeding is pending in any court, and which records may be necessary to carry out their duties consistent with the law.

(c) If any adoption records, sealed, post-adoption or adoption assistance records are required by court-order under this part to be disclosed for any legal proceeding other than the adoption proceeding itself, the court in which they are to be utilized shall enter a protective order to restrict their further disclosure or dissemination. Such records shall not become a public record in any legal proceeding.

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(d) Unauthorized disclosure of any records protected as confidential under this part shall be a Class A misdemeanor. Unauthorized disclosure of such records for personal gain or for a malicious purpose shall be a Class E felony.

**T.C.A. § 36-1-126. Record kept under seal. Confidential records. Access to certain records. Preservation of records.** (a) After the entry of the final order of adoption or the final order dismissing the adoption, revoking the surrender, or dismissing termination of parental rights proceedings which were filed in conjunction with an adoption proceeding, all records, reports or other papers concerning the placement of the adopted person for adoption or concerning the litigation of the adoption of that person which are in the office of the judge or clerk of the court where the adoption was filed or where the surrender or revocation was taken, in the offices of a licensed child-placing agency, a licensed clinical social worker, or in the county, regional, or state offices of the department of health, and in the county, district, and state offices of the department of human services, shall be placed, and remain, under seal, except as provided herein or in § 36-1-118(e)(4) or in Title 68, and shall be confidential and shall be disclosed only as provided in this part.

(b)(1) Upon the granting or dismissal of an adoption petition, all records and reports relating to the adoption proceeding and the child's placement with the department or the licensed child-placing agency or licensed clinical social worker and with the adoptive family which are in the offices of the department or in the offices of any Tennessee licensed child-placing agency or licensed clinical social worker, shall be forwarded by the county and district



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offices of the department and by the licensed child-placing agency or licensed clinical social worker to the state office of the department, which shall place the records under seal and ensure their safekeeping.

(2) The licensed child-placing agency or licensed clinical social worker shall, however, maintain a limited record which indicates the child's date of birth, the date the agency received the child for placement, from whom the child was received and their last known address, with whom the child was placed and their last known address, and the court in which the adoption proceeding was filed and the date the adoption order was entered or the adoption petition dismissed.

(3) The information in the limited record shall be confidential and not open to inspection by any person, except as provided in this part. These records shall be maintained in a locked file or other secure depository by the agency or by the licensed clinical social worker or, if kept in electronic media, shall be maintained in a method which restricts access only to authorized agency personnel or the licensed clinical social worker. The limited record shall only be accessible to authorized agency personnel or the licensed clinical social worker or to authorized personnel of the department in the performance of its duties under this part or for inspection under the department's licensing duties, or as otherwise authorized by this part.

(4) Upon entry of an order of adoption or dismissal of a petition for adoption, or revocation of a surrender or parental consent, or modification of an order of guardianship, the

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clerk of the court where the adoption proceedings were filed shall forward a certified copy of the order to the state office adoptions unit of the department in Nashville.

(5)(A) Any licensed child-placing agency or licensed clinical social worker which or who plans to cease conducting its activities related to the adoptive placement of children, the conduct of home studies, or any other such adoption-related services, shall notify the department's state office adoptions unit in Nashville by certified mail, return receipt requested, thirty(30) days in advance, and shall forward all records related to any adoption-related services it has performed to the department.

(B) The department is specifically authorized to file a complaint and seek any necessary court orders, including injunctive relief of any kind, from any chancery or circuit court to preserve those records from loss or destruction and to obtain possession of those records for their preservation.

(C) Upon receipt of the records, the department shall take any necessary steps to preserve the records in accordance with this part. Such records shall be filed as a sealed adoption record, and shall be confidential, and shall be otherwise subject to the provisions for access as provided pursuant to this part.

(6)(A) The clerks of the courts of this state are specifically authorized to undertake efforts to locate in any public building in their respective counties any records of adoptions or attempted adoptions of any person by any court, including former county courts or any court which previously had adoption jurisdiction, which records may be in the control or possession of

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any person or entity. Upon location of these records, if it is determined that the information therein was the result of an adoption which was filed or consummated and the clerk has no prior record of the adoption, the clerk shall record the existence of this adoption record in a special docket book for this purpose, shall maintain the adoption petition, consents or surrenders, and the order in a file for that purpose under the provisions of this part, and shall transmit to the department certified copies of the adoption petition, the surrenders and consents and the order of adoption, and the originals of any remaining documents in the record which has been located.

(B) Upon receipt of the record the department shall take any necessary steps to preserve the record and they shall be treated as sealed adoption records pursuant to this part.

(c)(1) The sealed adoption record shall be registered by the department in such a manner as to record the names of the adopted person, the adopted person's birth name, his or her date of birth and social security number, the names of the adoptive parents, and, if possible, any information concerning the names of birth parents of the child which are readily accessible to the department, the court where the adoption was filed, the docket number of the court proceeding, and the date of the adoption decree or the order of dismissal of the adoption petition, the order revoking the surrender, or the order dismissing the order of guardianship. The department may record such other information as it shall deem necessary to maintain adequate information concerning the location of the sealed adoption record and the means by which to locate such record.

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(2) Such registration record shall be maintained in a secure manner so that no unauthorized persons may obtain access to the records. The sealed adoption record shall be placed in a separate sealed folder or in a suitable electronic media format wherein the record can be held under a separate file name, and shall be stored with the state records management unit of the department of general services or its successor, which shall carefully protect and preserve the sealed records and shall maintain proper security for the confidentiality of the sealed records.

(3) If electronic methods of recording the information contained in the sealed adoption records are employed, the departments of human services and general services shall utilize any necessary methods to ensure the preservation and confidentiality of the electronic records.

(d)(1) The department may open the adoption records, the sealed or post-adoption records, the adoption assistance records, or the limited records in subsection (b) in order to perform any duties required under this part and any specific provision for access to such records contained herein shall not be construed as a limitation on the ability of the department to access such records for such purposes.

(2) Notwithstanding any law to the contrary, including § 68-3-313, the department shall, upon its request, be granted access to and shall be provided a copy of the original birth certificate of the adopted person in the custody of the division of vital records of the department of health.

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(3) For purposes related to any federal or state audit relative to an adoption assistance program or an adoption assistance grant, the department may open any record for the sole and limited purpose of complying with the audit requirements of the federal or state program.

(4) For purposes related to the determination of eligibility of any child for adoption assistance, the departments of human services and finance and administration may open any adoption record, sealed adoption record, post-adoption record, or adoption assistance record for that limited purpose and may utilize any information in such records in any manner necessary for eligibility determination or adjudication of a claim for such assistance.

(5) For purposes related to the determination of eligibility of any adopted person or any person placed for adoption for any federal or state benefit or any other benefits to which they may be entitled, the departments of human services and finance and administration may open any adoption record, sealed adoption record, post-adoption record, or any adoption assistance record and disclose any information contained in those records which may be necessary to permit determination of eligibility for, or correction of, payments made to or on behalf of any adopted person.

(6) The department may open or utilize for any purpose the sealed adoption record or the post-adoption record at any time in order to obtain any information concerning any person who may be placed in the custody or guardianship of the department or any other agency of the state of Tennessee or service provider of the state of Tennessee by any court or by the adopted person's parents, or who may be placed with the department or any other agency of the state of

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Tennessee or service provider of the state of Tennessee due to any re-surrender of the adopted person to the department by the adopted person's adoptive parents or his or her prospective adoptive parents.

(7) The department may open the sealed adoption record when a birth certificate in the adopted name was not issued and it becomes necessary to open the sealed adoption record to provide any information to the office of vital records to complete the birth certificate.

(8) The department, the department of general services, or their specifically authorized agents, may open the sealed adoption or post-adoption records at anytime it becomes necessary to perform any tasks related to the preservation of the records, and each department is specifically authorized to utilize any methodology which now exists or which may be developed in the future for the permanent preservation of the records of a sealed adoption record, and they may open the records for the limited purpose of undertaking these preservation methods. This subdivision shall not authorize the release of any information contained in the records to any other person or entity except as specifically authorized by this part, or as may be directly related to the preservation of the records.

(9) After use of the records pursuant to this subsection, they shall be re-sealed and returned to storage.

(e) In the event of an appeal from any ruling of the trial court in the adoption proceeding, the clerk shall place the court's record of the adoption proceedings in a sealed file in a locked file or other secure depository or, in the event of the use of electronic storage, the records shall

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be maintained in a secure method of storage which restricts access only to the clerk and other persons authorized by the court. These records shall remain confidential and shall not be open to inspection by anyone other than the trial or appellate courts, the clerk, the parties to the proceeding, or the licensed child-placing agencies, or the licensed clinical social worker, or the department or other governmental agencies which have been involved in the case, except by order of the court.

**T.C.A. § 36-1-127. Availability of records to adopted persons and certain other persons for adoptions finalized or attempted prior to March 16, 1951. Availability of records to adopted persons and certain other persons for adoptions finalized or attempted after March 16, 1951.** (a)(1) On March 16, 1951, Public Chapter 202 became effective and all adoption records in existence at that date and those records after that date became sealed.

(2) It is the intent of the general assembly that all adoption records, court records, and other information regarding an adoption whether sealed, whether in any court record, or whether in any post-adoption record, on and after the effective date of this Act, and which were in existence on March 16, 1951, be made available as provided in this section.

(3) It is further the intent of the general assembly, in view of the testimony before the Adoption Study Commission established by Senate Joint Resolution 17 (1993) and which testimony demonstrated the great concern by many persons regarding the practices of certain Tennessee adoption agencies in earlier years, that any adoption records maintained at any time

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by the Tennessee Children's Home Society, chartered on June 24, 1913, and authorized under Senate Bill 947, Public Chapter 117 (1919) and any branch or division thereof, including an organization known as the Tennessee Children's Home Society-Shelby County Division which was referenced in the report of the Tennessee Department of Public Welfare to Governor Gordon Browning dated June 12, 1951, shall also be made available for access in accordance with this section whether such records were completed or sealed before, on, or after March 16, 1951.

(b) Pursuant to the requirements of subsections (g) and (h) of this section, all records and other papers relating to adoptions finalized prior to March 16, 1951, and all records concerning any adopted person who was subject to placement by any agency described in subsection (a)(3), whether the adoption of the adopted person who was subject to the provisions of subsection (a)(3) was finalized or was dismissed or was otherwise not completed before or after March 16, 1951, which records are in the office of the clerk of the adoption court, in the offices of the department of health, in the office of any child-placing agency, in the state, district, and county offices of the department of human services, or in any other information source, shall be made available to an adopted person, his or her parents, and his or her siblings or lineal descendants who are twenty-one (21) years of age or older or their legal representative, subject to the provisions or restrictions in the following subsections or sections.

(c) Pursuant to the requirements of subsections (g) and (h) of this section, for all other adoption records involving adoptions finalized, or for any records concerning the placement for



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adoption of any person, which records were created on or after March 16, 1951, the adoption records, sealed adoption records, or post-adoption records in the office of the clerk, in the office of the department of health, in the office of any child-placing agency, in the state, district, and county offices of the department of human services, or in any other information source, shall be available to adopted persons twenty-one (21) years of age or older or their legal representative, the adopted person's parents, and his or her siblings or lineal descendants twenty-one (21) years of age or older or the legal representatives of such persons, subject to the provisions or restrictions in the following subsections or sections.

(d) No contact, whether by personal contact, correspondence, or otherwise, shall be made in any manner whatsoever by those requesting persons who are subject to the provisions of subsection (c), or any agent or other person acting in concert with those requesting persons, with any person(s) eligible to file a contact veto under the provisions of §§ 36-1-128 - 131, except as permitted pursuant to those sections.

(e) Except in cases arising pursuant to § 36-1-127(b), no access to identifying information in any adoption record, sealed adoption record, or post-adoption record, shall be granted to any parent or pre-adoptive guardian of an adopted person under the age of twenty-one (21), or, at any time, to any parent or guardian of an adopted person whose rights were involuntarily terminated for cause in any termination of parental rights proceeding, or to any persons whom the sealed adoption records or the post-adoption records indicate were guilty of a crime of violence or neglect involving the adopted person.

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(f) The sealed adoption record, or post-adoption record requested by the persons stated in subsection (c) shall be made available only after completion by the requesting party of a sworn statement agreeing that he or she shall not contact or attempt to contact in any manner, by themselves or in concert with any other persons or entities, any of the persons eligible to file a contact veto pursuant to § 36-1-128, until the department has completed the search of the contact veto registry as provided in § 36-1-130 or pursuant to § 36-1-131, and that he or she understands the legal remedies for violation of the contact veto. The sworn statement shall contain language, which shall be acknowledged by the requesting party, concerning the existence of the contact veto procedure and the legal remedies for breach of the contact veto.

(g) Access by any eligible person under any subsection of this section to any records held by the department, the court, the departments of general services or health, or any licensed child-placing agency or licensed clinical social worker may only be had after verification of the identity of the requesting party and written authorization by the department is received by those information sources from the department.

(h)(1) A request for access to an adoption record, sealed adoption record, or a post-adoption record, pursuant to this section, shall be made in writing to the department.

(2) The writing shall include the following information:

(A) The name, date of birth, address, and telephone number of the person requesting the access;

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(B) Information, including legal documents or affidavits if available, which establish the person's legal relationship to any person under this section or which otherwise establishes the person's right to request access;

(C) Any other information which the department requires to establish the person's identity, to locate records involving the requesting parties or the persons with whom contact may be sought, and to establish the person's right to request access; and

(D) Identification of any person(s) or class of persons, if any, with whom the requesting party seeks contact; provided, however, that this provision shall not apply to persons seeking information pursuant to subsection (b).

(3) If the information in the written request does not establish the person's right to have access to the records, the department will search the sealed adoption and post-adoption records, including those of other alleged siblings, if available, for information which may establish the person's right to have such access.

**T.C.A. § 36-1-128. Contact veto registry--Persons eligible to have names entered.**

(a) The department shall establish and maintain a Contact Veto Registry for the purposes of permitting registration of the willingness or unwillingness of the persons or classes of persons named herein for contact with persons eligible to have access to any records covered by this part; provided, however, the Contact Veto Registry shall not be applicable to records requested pursuant to § 36-1-127(b).

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(b) The following persons may have their names entered in the Registry either to file a contact veto or to give consent to contact:

(1) An adopted person twenty-one (21) years of age or older who was the subject of an adoption petition filed on a person for whom a sealed adoption record or a post-adoption record was established on or after March 16, 1951;

(2) A parent, sibling, or lineal descendant of such an adopted person or a person who believes they are in such a status;

(3) An adoptive parent of an adopted person subject to this section who is less than twenty-one (21) years of age; or

(4) The legal representative of any person described above.

(c) The Registry shall contain the following information:

(1) The name of each person who has duly filed a contact veto or who has given consent for further contact;

(2) The address given by the person as the address at which any personal, postal, or telephone contact shall be made by the department;

(3) The date and place of birth of the person, if known;

(4) The person or group of persons with whom the person objects to contact; provided, however, this subdivision shall not be construed to allow any person to forestall contact between any other persons who agree to contact;

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(5) The name, address, and telephone number of the person requesting contact so as to be notified in the event that the contact veto is withdrawn or varied;

(6) The method of contact, if any, to which the person consents, including contact through one or more third parties; and

(7) Any other information which eligible parties wish to release to the other eligible parties.

(d) Within ninety (90) days of the effective date of this Act and periodically thereafter on at least an annual basis, through the use of public service announcements and other forms of media coverage as may be available without cost, the department shall announce the existence of the Registry and its services.

**T.C.A. § 36-1-129. Procedures for filing contact veto or giving consent.** (a)(1) A person, eligible to file a contact veto or give consent for further contact may notify the department in writing on a form supplied by the department that he or she does or does not object to contact being made with him or her by any person or group of persons who are eligible to establish contact. The department shall supply the necessary form upon request of any persons eligible to have their names entered on the registry.

(2) A contact veto is not effectively filed or consent properly given unless the person provides the department with satisfactory proof of his or her identity and completes and files with the department a form from the department containing the relevant information in § 36-1-128(c) and pays any necessary fees.

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(b) As part of the surrender under § 36-1-111 or as part of a parental consent, a biological parent or guardian shall indicate in the appropriate place on the surrender or parental consent document whether or not he or she wishes to file a contact veto or give consent for further contact and shall complete the information requirements for registration on the Contact Veto Registry on a form supplied by the department containing the relevant information in § 36-1-128(c). A contact veto is not effectively filed or consent properly given unless the person surrendering completes such form at the time of the surrender or properly files the form with the department at a later time; provided, however, that no fee for filing a contact veto shall be required if completed at the time of the surrender. If, for any reason, the person fails to complete a consent for contact or a veto at the time of the surrender, they may do so at a later time after compliance with all provisions for filing, including the payment of all necessary fees.

(c) Upon satisfactory proof of identity, a person who has filed a contact veto or who has given consent may withdraw or vary the veto or consent at any time in writing to the department.

(d) By filing a contact veto which complies with the requirements of this section and § 36-1-129, a person is entitled to notification of any inquiry requesting contact with the requesting party.

(e) Forms for filing consents for contact or for filing contact vetoes shall be made available by the department in the offices of the clerks of courts with adoption jurisdiction and in the department's state office and county offices.

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**T.C.A. § 36-1-130. Access to Records--Search of registry--Restrictions on Contact.**

(a)(1) When a request is made for access to an adoption record, a sealed adoption record, or a post-adoption record by a person eligible to have access, that person shall identify in writing on the form supplied by the department, the persons or classes of persons who are eligible under § 36-1-128 to refuse or allow contact with whom he or she wishes to establish contact, if any, and shall submit the sworn statement required by § 36-1-127(f).

(2) Upon submission of the sworn statement and after proper identification of the requesting party, the department shall grant access to the records requested. Notwithstanding the provisions of § 68-3-313, upon receipt of a copy of the sworn statement required by § 36-1-127 or upon notification from the department, the division of vital records of the department of health shall grant access to a copy of an adopted person's original or amended birth certificate.

(3) No person requesting access to the records, whether acting alone or in concert with any other person(s) or entities, shall at anytime contact or attempt contact with any person(s) who are eligible to file a contact veto until the completion of the search by the department pursuant to the provisions of this section and § 36-1-131. Violation of this prohibition shall make the requesting party, his or her agents, or any person(s) acting in concert with them subject to the legal remedies pursuant to § 36-1-132.

(4) If the person eligible to request access to the records does state on the form a desire to contact any person who is eligible to file a contact veto, then the department shall search the

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contact veto registry to determine whether a contact veto has been filed or whether consent has been given for further contact with the person who is sought.

(5) The department shall only search for those persons with whom the requesting party seeks contact.

(6) A contact veto filed by one person shall not preclude contact between other persons who wish to have contact in accordance with this part.

(b)(1) If a contact veto has been filed, the department shall notify the person with whom contact has been sought of the inquiry concerning the request for contact. Such person shall have the opportunity to confirm the veto, vary it, or withdraw it.

(2) If the contact veto remains intact, then the department shall notify the requesting party of this fact and the requesting party shall not be permitted any contact with the person sought.

(3) If the contact veto remains intact, the person making the request may place his or her name, address, and telephone number in the Registry to request notification from the department should the contact veto be varied or withdrawn or such person may, in writing, permit the department to release his or her name, address, and telephone number to the person who had entered the contact veto and that person may contact the requesting party at his or her discretion without further involvement of the department.

(c) If consent for contact is shown from the Registry records or is given by the person with whom contact is sought either by withdrawing or varying the veto, the department shall, in



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conformity with the consent or the varied veto, notify the person making the original request of this fact and shall provide such information as may be available to establish contact.

(d) If the persons or classes of persons who are the subject of the search were not located on the Registry or could not be notified at the address designated in the Registry, the department shall follow the procedures under § 36-1-131.

**T.C.A. § 36-1-131. Search of sealed or post-adoption records-- Opportunity to veto contact.** (a) If after a search has been made of the Registry and either no person with whom contact was requested was located on the Registry or the person named on the Registry could not be notified at the address designated in the Registry, the department shall search the sealed adoption records or the post-adoption records in its possession for information concerning the location of the person who is the subject of the search and shall conduct a diligent search for such person.

(b)(1) Upon locating such person whose relationship to the requesting party is confirmed by the person sought or whose relationship to the requesting party is or has been confirmed by other evidence satisfactory to the department, the department shall notify such person of the inquiry and of the department's determination of relationship to the requesting party.

(2) Such person whose relationship to the requesting party is confirmed as provided in subdivision (1), or that person's legal representative, must file a contact veto pursuant to §§ 36-1-128 and 36-1-129 and must pay any necessary fees, within ninety (90) days of the date the department gives oral or written notice of that time period for filing a contact veto. If the contact

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veto is timely and effectively filed pursuant to this part, then the department shall notify the requesting party in writing and no contact shall be permitted with that person with whom contact was sought. If the contact veto is not timely and effectively filed, the department shall notify the person requesting the search and that person shall be permitted to attempt contact with the person(s) who was sought. Written notice shall be effective upon the date the notice is sent.

(c) If the person who is the subject of the search whose relationship to the requesting party has been confirmed by evidence satisfactory to the department cannot be located after diligent search, including the sending of notice to the last known mailing address of such person, the department shall inform the person requesting the search of this fact in writing and that person shall be under no further restrictions pursuant to § 36-1-130 against contact with the person who has been sought.

**T.C.A. § 36-1-132. Civil cause of action for violation of contact veto.** (a) Any person who has filed a contact veto pursuant to this part, or such person's legal representative, shall have a cause of action in the circuit or chancery court for injunctive relief and for compensatory and punitive damages against any person or entity who or which has violated the provisions of the contact veto.

(b) Venue for such action shall be in the county of the residence of the plaintiff, or, if the plaintiff resides out of state, in the county where the adoption petition was originally filed, or if no petition was filed, or if its venue is unknown, in the chancery or circuit court of any county with a

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population of one hundred thousand (100,000) or greater as established by the federal census of 1990 or any subsequent census.

(c) A certified copy of the sworn statement which was signed pursuant to § 36-1-127(f) by the person against whom the action is brought for violation of the contact veto shall be admissible in the action under this section as conclusive evidence of that person's knowledge of the restrictions imposed by a contact veto or the restrictions imposed by § 36-1-130(a).

(d) Any person who has filed a contact veto and who has prevailed in an action under subsection (a) shall be entitled to recover attorneys fees and all costs of the proceeding from the opposing party or parties.

(e) Any action under this section shall be brought within three (3) years of any contact or attempted contact in violation of this part.

**T.C.A. § 36-1-133. Release of nonidentifying information concerning biological family.**

(a) Upon written request of an adopted person eighteen (18) years of age or older or of the adoptive parents or guardian of an adopted person under eighteen (18) years of age, the biological or legal relatives of an adopted person, the lineal descendants of the adopted person, or the legal representatives of such persons, the department shall provide to such persons, upon proper identification of such persons by the department, nonidentifying information about the adopted person and such person's biological or legal relatives as may be contained in the adopted person's sealed adoption record or post-adoption record.

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(b) The information which may be released shall include only the following; provided, however, that nothing in this section shall be construed to authorize or require the release of any information from a sealed adoption record or post-adoption record if such information would lead to the discovery of the identity or whereabouts of the biological or legal relatives of the adopted person if those biological or legal relatives have not registered their consent as provided under §§ 36-1-128, 36-1-129, 36-1-130 or 36-1-131, or unless the provisions of § 36-1-138 are applicable:

(1) The date and time of the birth of the adopted person and such person's weight and other physical characteristics at birth;

(2) The age of the adopted person's biological relatives at the time of such person's birth;

(3) The nationality, ethnic background, race, and religious preference of the biological relatives;

(4) The educational level of the biological relatives, general occupation, and any talents or hobbies;

(5) A general physical description of the biological relatives, including height, weight, color of hair, color of eyes, complexion, and other similar information;

(6) Whether the biological or legal parent had any other children, and if so, any available nonidentifying information about such children;

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(7) Available health history of the adopted person, and his or her biological or legal relatives, including specifically, any psychological or psychiatric information which would be expected to have any substantial effect on the adopted person's mental or physical health.

(c) Whenever the department releases information pursuant to the provisions of this section and it appears from the record that the adopted person who has sought information has been adopted two (2) or more times, the department shall specify whether the information released pertains to the adopted person's birth parents or to any intervening adoptive parent(s).

**T.C.A. § 36-1-134. Transmission of information between affected parties--**

**Updating of information to establish contacts.** (a) Subject to written direction and consent of the parties to a search request, the department or a licensed child-placing agency or the licensed clinical social worker shall, in any situation where contact has been sought, transmit between the parties any written, photographic, video, or audio communication, even if no direct contact is permitted or desired.

(b) Requesting parties or adopted persons may, in writing from time-to-time to the department, a licensed child-placing agency, or the licensed clinical social worker, update their personal information, addresses, and telephone numbers in order to allow periodic contact by the department for subsequent search requests or for other contact by the department or the licensed child-placing agency or the licensed clinical social worker.

**T.C.A. § 36-1-135. Updated medical information in records. Searches for persons affected.** (a) The department shall update post-adoption records with any medical,

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psychological, or psychiatric information provided by an adopted person or by any biological or legal relative or the legal representative of any adopted person, concerning the adopted person or the biological or legal relatives of an adopted person; provided, however, that such information shall be provided in the form of a letter or other written evidence from a licensed health care professional or from a licensed health care facility which explains the health care status of persons who may be affected and why the transmission of such information to other persons is necessary.

(b) Upon receipt of the information under subsection (a), the department shall, at no charge to any of the persons listed under subsection (a), conduct a diligent search for the person or persons who may be affected and, if located, shall notify them, their parents, if applicable, or their legal representatives, if applicable, of the availability of and the nature of this information and those persons may request that the information be provided to them. In any case, copies of all such updated information shall be maintained in the post-adoption record for future use.

(c) If any of the persons listed in subsection (a) seek additional or updated information for a medically established need as determined by written evidence from a licensed health care professional or a licensed health care facility pursuant to the requirements of subsection (a), the department shall, at no charge, contact the persons who have access to or who have or may have knowledge of such information and shall request the persons so contacted to provide such information to the department for transmittal to the treating professionals or health care facility

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of the requesting party. Such information shall be provided to the department by means of a specific release for a stated purpose and the release shall be time limited.

**T.C.A. § 36-1-136. Permission for contacts with minors and certain adults.** (a) If the person sought in a search request pursuant to the provisions of this part is under eighteen (18) years of age or is an adult person with a known legal representative, any contacts which the department may be required to make shall be with the adopted person's parent(s) or guardian or the minor biological or legal relative's parent(s), or the known legal representative of such persons, as the case may be.

(b) Any decision permitting contact with the adopted person or the parent, sibling, or lineal descendant by the requesting party shall be made by the adopted minor's parents or by the minor biological or legal relative's parents, or the legal representative of the person sought.

**T.C.A. § 36-1-137. Inability of department to verify adoptive status or relationships--Waiting period to request further searches--Limitation on searches.** (a) If, after reviewing the sealed adoption records, the post-adoption records, and any other credible evidence, and after conducting a diligent search and making any other reasonable inquiries as to the adoptive status of a requesting party or the relationship of the biological or legal relatives to the adopted person, or of the adopted person to a biological or legal relative as the case may be, the department is unable to verify the requesting party's adoptive status or the legal, biological, or sibling relationships of the persons seeking to establish contact to the persons sought or the status of any legal representatives, the department shall notify the requesting party of this fact

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and the basis for the inability to verify the relationship, but shall not provide access to any record to the requesting party, otherwise authorize contact with the person sought or transmit information between any parties.

(b) No additional searches shall be required to be made pursuant to this part in an effort to establish relationships, status, or contact for a period of six (6) months from the date of the department's response to the requesting party unless satisfactory evidence is presented to the department in the interim to justify additional searches or unless, in the department's discretion, circumstances warrant such further attempts.

(c) The department shall not attempt further contact with the person sought if that person specifically requests that no further contact be made unless that person or his or her legal representative withdraws such request in writing; provided, however, if the person's relationship to the requesting party is confirmed by the person sought or by other evidence satisfactory to the department, the department shall notify such person of the requirement for filing of a contact veto pursuant to §§ 36-1-128, 36-1-129, and 36-1-131(b)(2) and that failure to file the contact veto pursuant to those sections shall permit the requesting party to establish contact.

(d) No more than two (2) records search or contact attempts shall be required to be made by the department , unless, in the department's discretion, circumstances warrant further attempts.

**T.C.A. § 36-1-138. Court orders for the release of information from adoption records.** (a)(1) Any necessary information in the files or the record of an adoption proceeding or



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in an adoption record, sealed adoption record, post-adoption record, or adoption assistance record may be disclosed pursuant to the requirements of subsection (c), to the party requiring it, upon a written, sworn motion before the court of original jurisdiction of the adoption proceeding, or, where the adoption proceeding is not yet filed, in the chancery or circuit court of the county where the record is located, or in the chancery or circuit court of any county which has a population of one hundred thousand (100,000) or greater as established by the federal census of 1990 or any subsequent census.

(2) Jurisdiction for motions filed pursuant to subsection (c)(5) shall be in the chancery court for Davidson County.

(3) If the court which had original jurisdiction was a county court or is a court which no longer exists, the chancery court for the county in which such court was established shall have jurisdiction to hear the motion in addition to the circuit or chancery courts in counties with a population of one hundred thousand (100,000) or more as established by the federal census of 1990 or any subsequent census.

(4) The department or the licensed child-placing agency, or licensed clinical social worker shall upon request of the party seeking such information, disclose to the party the court in which such proceeding was filed and the docket number, if known to the department or the licensed child-placing agency, or the licensed clinical social worker, or shall disclose the county in which the adoption record is located.

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(b) The motion must be served upon the commissioner of the department of human services and the commissioner of the department of health by certified mail, return receipt requested, or by personal service upon the commissioners or a duly designated agent of either commissioner. The hearing shall not be held sooner than fifteen (15) days after the return receipt is dated or the date of personal service. Failure to obtain service on both commissioners, or any hearing held prior to the expiration of the fifteen (15) day service period, shall result in the order entered in the proceeding being void and of no effect whatsoever. Each commissioner shall be permitted to file a response and may appear through counsel to respond in writing or orally, and may appeal any resulting order.

(c) The record of the adoption proceeding, the adoption record, sealed adoption record, post-adoption record, or adoption assistance record may be opened, under whatever conditions the court shall determine necessary, if the court finds, for good cause shown, that the best interests of the adopted person or of the public requires such disclosure, and that one or more of the following requirements is met:

(1) The movant must show that information is needed for purposes of treating or preventing a physical, psychological, or psychiatric condition affecting any person which is clearly and specifically described by testimony or affidavit of a qualified treatment professional. For purposes of this section, "qualified treatment professional" shall mean a person licensed by any state or federal authority or the duly authorized licensing body of any other government to provide treatment for physical, psychological, or psychiatric conditions;

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(2) The movant must show that the information is needed for purposes of establishing legal status or standing for inheritance or for property rights determinations or for the determination of legal relationships for third parties;

(3) The movant must show that the information is necessary for the movant to prosecute or defend a legal proceeding and that alternative information sources or other means of accomplishing this end are not available;

(4) The movant is any public agency which requires the disclosure of the information in such record for purposes directly related to its authorized duties and that such information cannot be obtained by any other method, or that further delay in obtaining information which may be contained in such record may result in harm to the adopted person, the adopted person's biological parent(s) or biological or legal relatives, or to the public;

(5) The movant is an individual who has sought disclosure under the provisions of §§ 36-1-127- - 36-1-131 and §§ 36-1-133, 36-1-134, and 36-1-135 and claims that he or she has been improperly denied access to the information so requested by the departments of human services or health pursuant to the provisions of those sections; or

(6) The movant is an individual who alleges wrongful denial of access pursuant to § 36-1-127(e) which was based upon a finding of involuntary termination of parental rights of that individual or which is based upon a finding that the sealed adoption record or post-adoption record indicates that the biological parent committed a crime of violence or neglect against the adopted person.

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(d) In determining whether to order disclosure of information contained in the sealed adoption record or the post-adoption record, the court shall conduct an in camera inspection of the records and shall permit disclosure of only such information as shall be necessary to fulfill the requirements of subsection (c).

(e) The departments of human services or health may consent to the release of any sealed or post-adoption records or records of birth under this section by an agreed order which is approved by the court if any of the conditions of subsection (c)(1) through (4) have been met or if the departments determine that they have been in error in refusing to release requested information pursuant to §§ 36-1-127 -- 36-1-131, and 36-1-133, 36-1-134 and 36-1-135.

(f)(1) The court may, upon notice to the department of human services pursuant to subsection (b), order the department to attempt to establish contact with any person or entity for the purpose of obtaining any updated medical information necessary to assist in the treatment of the adopted person or the adopted person's biological or legal relatives or any person who has filed a motion under this section.

(2) If the department obtains the information sought under this subsection, it will report this fact to the court and shall send such information directly to the "qualified treatment professional" who is providing care and treatment for the person who sought the information, unless the court, for good cause entered in the record, shall order otherwise.

(g)(1) No contact by a party who is eligible to request a search under § 36-1-127(c) receiving information pursuant to this section shall be permitted with a party eligible to register a

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contact veto under § 36-1-128 unless the provisions of §§ 36-1-130 and 36-1-131 have been or are completed and contact is permissible pursuant to those sections.

(2) The department's response to the court shall inform the court if any person has filed a contact veto.

(h) The provisions of this section are supplemental to the previous provisions of this part permitting access to records by eligible persons without court orders and shall not be construed to be restrictive of those provisions.

**T.C.A. § 36-1-139. Penalty for providing false information related to information requests.** Any person or entity who or which knowingly provides false information to the department, a licensed child-placing agency or licensed clinical social worker, or the court in connection with any of the provisions of §§ 36-1-125 -- 36-1-138, or § 36-1-141, or the rules and regulations of the department which establish procedures for search requests or access to records, shall be guilty of a Class E felony.

**T.C.A. § 36-1-140. Immunity for actions in good faith by department personnel and immunity of certain other persons.** (a) The actions of the personnel of the department, or the departments of health, finance and administration, and general services, or their successors, undertaken in the performance of their duties pursuant to §§ 36-1-125--36-1-138 of this part or pursuant to § 36-2-209, or those actions of a licensed child-placing agency or licensed clinical social worker when acting pursuant to the provisions of § 36-1-134, within the scope of their authority shall be presumed to be undertaken in good faith and the personnel of these

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departments or licensed child-placing agencies or the licensed clinical social worker and the officers and agents of the state of Tennessee shall thereby be entitled to absolute immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The presumption shall only be overcome by clear and convincing evidence that the actions were malicious or were for personal gain.

(b) The absolute immunity of subsection (a) shall extend to information provided by any of the entities, their officers, personnel, or agents under that subsection which is obtained from another source and which is either incorrect or false.

(c) No information which is released pursuant to the provisions of this part concerning a biological or legal parent or guardian who voluntarily surrendered or consented to adoption of a child shall be the basis for any civil liability of the biological or legal parent or guardian.

**T.C.A. § 36-1-141. Fees for searches, registration of contact vetoes, and copies.**

**Promulgation of rules. Forms** (a)(1) The department shall, by rules promulgated pursuant to § 4-5-201 et seq., establish fees or charges for conducting any search or record disclosure, except for those pursuant to § 36-1-135, and for transmission of any data in connection with such searches, for providing any nonidentifying information, for registering requests for contact vetoes, or for providing copies of documents; provided, however, the rules shall provide for waiver of any fees or charges based upon a person's ability to pay.

(2) Any fees or charges received by the department pursuant to the provisions of the part shall be deposited with the state treasurer in accordance with the provisions of § 9-4-301.

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(b) The department shall, by rules promulgated pursuant to § 4-5-201 et seq., establish forms which shall be required for use by all Tennessee courts, agencies, and persons for:

- (1) Surrenders and parental consents;
- (2) Medical and social history information required by § 36-1-111;
- (3) Revocation of surrenders and parental consents;
- (4) Consents and revocation of consents by minors or guardians ad litem required by § 36-1-117;
- (5) Certifications of completion of counseling and the criteria for counseling and certifications of the completion of legal service required by § 36-1-111;
- (6) Disclosure forms required pursuant to this part;
- (7) Contact veto forms and any other search request forms, sworn statements forms required for access to records, any other records access permission, information or notification forms or any fee or charge waiver forms; and
- (8) Releases of information.

(c) The forms required by subsection (b) shall be promulgated pursuant to §§ 4-5-201 et seq., and shall be mandatory forms, and shall, notwithstanding any law to the contrary, be effective as public necessity rules on the dates any of the sections of this act necessitating their promulgation become effective as provided by this act; provided, however, the provisions of §§ 4-5-201 et seq. related to promulgation of such forms as permanent rules must be followed.

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(d) Any other rules required by the departments of human services, health, and general services to effect implementation of the provisions of this part upon the effective dates of any sections in this act, including rules establishing fees and charges for services, shall, notwithstanding any law to the contrary, be effective as public necessity rules on the date of filing such rules; provided, however, the provisions of §§ 4-5-201 et seq. related to promulgation of such rules as permanent rules must be followed.

(e) The departments of human services, health, and general services shall be authorized to promulgate such other rules pursuant to the provisions of §§ 4-5-201 et seq. as may be necessary for the implementation of the provisions of this part.

(f)(1) The departments of human services, health, and general services shall make master copies of all forms necessary for compliance with this act available to all clerks of courts with adoption or surrender jurisdiction, to the administrative office of the courts, to the department of human services' county offices, to all licensed child-placing agencies, and to any persons requesting the same. Such master copies may then be duplicated and such exact duplicates shall be valid for any use required by this part. Master copies may, in addition, be provided to the clerks, the administrative office of the courts, the department of human services county offices, to all licensed child-placing agencies, and to any persons requesting the same by any suitable electronic medium as is deemed suitable to each of the departments for its purposes. Electronic facsimile copies of the forms prescribed under this section shall be valid for use as may be required.



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SECTION\_\_[2]\_\_. Tennessee Code Annotated, Section 36-2-201, is amended by deleting the period (.) at the end of the second sentence and by adding the following language:

; provided, however, that a putative father who seeks to legitimate a child who is the subject of a pending petition for adoption pursuant to § 36-1-101 et seq. must file his petition in the court where the adoption petition is filed. Any petition to legitimate a child which may be filed or which is pending in any court subsequent to the filing of an adoption petition involving the same child shall be transferred for any further proceedings to the court where the adoption proceedings are pending on motion of any party to the legitimation petition or the adoption petition, on the court's own motion, or upon the request of the adoption court. The adoption court shall have exclusive jurisdiction to determine the issues relating to the legitimation of the child. Any order of legitimation entered by any court other than the adoption court subsequent to the date the adoption petition is filed shall be void.

SECTION\_\_[3]\_\_. Tennessee Code Annotated, Section 36-2-209 is amended by deleting the section in its entirety and by substituting the following:

(a) The department of human services shall establish a putative father registry which shall be maintained by the department's adoptions unit in the department's state office in Nashville.

(b) The registrar of the division of vital records of the department of health shall notify the department's registry of all orders of legitimation or paternity received by the registrar pursuant to §§ 36-2-113 or 36-2-206, or of any acknowledgments of paternity received by the registrar

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pursuant to §§ 68-3-203(g), 68-3-302 or 68-3-305(b), on a form or by any electronic information exchange method agreed upon by the commissioners of human services and health. Such notification shall occur on a daily basis in order to update the putative father registry on a current basis.

(c)(1) The registry shall contain the names of the persons listed in subsection (e) and any other information required in subdivisions (e)(1)-(e)(3).

(d)(1) Those persons contained on the registry shall be given notice by the petitioners of proceedings for the adoption of a child or for the termination of parental rights involving a child, and they shall be necessary parties to the proceedings, and, except as they may waive their rights under subsection (f), must have their parental rights to the child terminated prior to entry of an adoption order, as may be required pursuant to title 36, chapter 1, part 1, unless they have executed a surrender, waiver of interest, or parental consent as provided in title 36, chapter 1, part 1.

(2) Nothing in this section shall be construed to eliminate the requirement to terminate the parental rights of any person if he meets all of the requirements of a legal or biological parent pursuant to § 36-1-117, even if he is not registered.

(e) The registry shall contain the names of the following persons:

(1) Those persons, their addresses, if available, the name of the child, and the name of the biological mother of the child if available, for whom the registrar of the division of vital records of the department of health has a record that an order of paternity or legitimation has

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been entered involving any person, and those persons for whom the registrar has a record of an acknowledgment of paternity executed under the provisions of §§ 68-3-203(g), 68-3-302 or 68-3-305(b), and their addresses, if available, the name of the child, and the name of the biological mother of the child appearing on the acknowledgment;

(2) Those persons who have filed with the registry a certified copy of a court order from this state or any other state or territory of the United States or any other country which adjudicates such person to be the father of a child born out of wedlock, and those persons who have filed with the registry a copy of a sworn acknowledgment of paternity of a child executed pursuant to the law of this state or pursuant to the law of any other state or territory or any other country; or,

(3) Those persons who have filed only a written notice of intent to claim paternity of a child with the registry either prior to, or within thirty (30) days after, the birth of such child.

(f)(1) A person filing a notice of intent to claim paternity of a child pursuant to subdivisions (e)(2) and (3) shall include with such notice his name, his current address and his current telephone number, if any, and, if filed under subdivision (3) he shall include the name of the child, if known, for whom he claims paternity and the name of the child's biological mother and the current legal or physical custodian, and their address and telephone number, if known, and any other information which may identify the child and the child's whereabouts. This information shall be maintained on the registry.

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(2) The person filing written notice of intent to claim paternity pursuant to subdivision (e)(3) shall be responsible for notifying the registry of any change of address and telephone number within ten (10) days of that change. Failure to do so within the ten (10) day period shall constitute a waiver of any right to notice of any proceedings for the adoption of the child for whom the person seeks to claim paternity, unless he is otherwise entitled to notice pursuant to § 36-1-117(b) or (c).

(g) A person who has filed a notice of intent to claim paternity of a child under subdivision (e)(3) may revoke the notice at any time in writing to the registry, and upon receipt of such notification by the registry, the revoked notice of intent to claim paternity shall be deemed a nullity as of the date it is filed.

(h) Any notice of intent to claim paternity filed under subsection (e), whether revoked or still in effect, may be introduced in evidence by any other party, other than the person who filed such notice, in any proceeding in which the paternity of a child may be relevant, including proceedings seeking payment of child support, medical payments on behalf of the child, or any other payments, or which may involve the payment of damages involved in connection with such paternity.

(i) Any person listed on the registry pursuant to subdivisions (e)(1)-(e)(3) by the department shall be notified by the department, based upon the information filed with the registry, of any proceedings for the adoption of any child or the termination of parental rights of any child of which the department's state office adoptions unit has actual notice of filing and for

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whom the registrant has made a claim of paternity, unless the person has previously executed an unrevoked surrender of the child or waiver of interest pursuant to § 36-1-111, or has consented to the child's adoption in accordance with title 36, chapter 1, part 1, or unless the person's parental rights have been terminated by court action.

(j) A person listed on the registry and entitled to notice of pending adoption or termination proceedings under subsection (e)(3) shall have thirty (30) days from the receipt of such notice to file a petition to legitimate or to intervene in the adoption proceedings or termination of parental rights proceedings for the purpose of establishing a claim to the paternity of the child or to present a defense to the termination or adoption case. The failure of such person to file a petition to intervene shall be sufficient cause for the court where the adoption proceedings or termination proceedings are pending to terminate the parental rights, if any, of such person pursuant to § 36-1-113(g)(8)(A)(vi).

SECTION\_\_[4]\_\_. Tennessee Code Annotated, Section 37-1-102, is amended by deleting subdivision (1) of subsection (b) in its entirety.

SECTION\_\_[5]\_\_. Tennessee Code Annotated, Section 37-1-102(b)(7), is amended by deleting the symbols, numbers, and word "§§ 37-1-147 and 37-1-148" and by substituting instead the symbols and numbers "§ 37-1-147".

SECTION\_\_[6]\_\_. Tennessee Code Annotated, Section 37-1-102(b)(19)(C), is amended by deleting paragraph (C) of subdivision (19) in its entirety and by substituting instead the following language:

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(C) The commission of any act towards the child prohibited by §§ 39-13-502, 39-13-503, 39-13-504, 39-13-510, 39-13-522, 39-15-302, and 39-17-1005 or the knowing failure to protect the child from the commission of any such act towards the child;

SECTION\_\_[7]\_\_. Tennessee Code Annotated, Section 37-1-103(c), is amended by deleting the symbols, numbers, and word "§§ 37-1-136 and 37-1-137" and by substituting instead the symbols, numbers, and word "§§ 37-1-137 and 37-1-147".

SECTION\_\_[8]\_\_. Tennessee Code Annotated, Section 37-1-104(c), is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) The juvenile, circuit and chancery courts shall have concurrent jurisdiction to terminate parental or guardian rights pursuant to the provisions of title 36, chapter 1, part 1.

SECTION\_\_[9]\_\_. Tennessee Code Annotated, Section 37-1-111(c), is amended by deleting the words "or abandonment".

SECTION\_\_[10]\_\_. Tennessee Code Annotated, Section 37-1-111(d), is amended by deleting the subsection in its entirety and by substituting instead the following:

(d) Proceedings to terminate parental rights shall be brought pursuant to § 36-1-113.

SECTION\_\_[11]\_\_. Tennessee Code Annotated, Section 37-1-136, is amended by deleting the section in its entirety.

SECTION\_\_[12]\_\_. Tennessee Code Annotated, Section 37-1-139, is amended by deleting the word "An" in the first clause of subsection (a) and by adding the words " Except as provided in § 36-1-113(p), an" before the word "order".

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SECTION\_\_[13]\_\_. Tennessee Code Annotated, Section 37-1-147, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The juvenile court shall be authorized to terminate the rights of a parent or guardian to a child upon the grounds and pursuant to the procedures set forth in title 36, chapter 1, part 1.

(b) Upon entering an order to terminate parental or guardian rights to a child the court shall award guardianship or partial guardianship of the child as provided in the relevant provisions of title 36, chapter 1, part 1.

(c) The effect of the court's order terminating parental or guardian rights shall be as provided in § 36-1-113.

SECTION\_\_[14]\_\_. Tennessee Code Annotated, Section 37-1-148, is amended by deleting the section in its entirety.

SECTION\_\_[15]\_\_. Tennessee Code Annotated, Section 37-2-403(a)(2) is amended by deleting the symbols, numbers, and word “§§ 36-1-102 and 37-1-102” and by inserting the symbol and numbers “ § 36-1-102”.

SECTION\_\_[16]\_\_. Tennessee Code Annotated, Section 68-3-313(a)(3), is amended by deleting the period (.) at the end of the sentence and by adding the following language:

or upon receipt of a directive from the department of human services  
consistent with the provisions of §§ 36-1-126, 36-1-127 or 36-1-130.

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SECTION\_\_[17]\_\_. Tennessee Code Annotated, Section 71-1-124, is amended by deleting the section in its entirety.

SECTION\_\_[18]\_\_. Tennessee Code Annotated, Section 71-3-501(b)(3), is amended by deleting the semicolon (;) and by adding the following language and punctuation:

or any other entity or individual or group of individuals who are engaged in providing adoption or foster care studies or placement services as defined by the rules of the department;

SECTION\_\_[19]\_\_. This act shall be effective upon becoming a law for purposes of any rulemaking requirements under Section 1 and for implementing Sections [16], [17] and [18]; it shall be effective July 1, 1995 for purposes of implementing Section 1 [TCA Code Section 127(b) re: the pre-1951 records and the TCHS records], and on January 1, 1996 for purposes of implementing the remaining requirements of Section 1 and Sections [ 2] through [15] of this act, the public welfare requiring it.